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MONOPOLIES PAST AND PRESENT

AN

INTRODUCTORY STUDY

BY

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PREFACE.

In the following pages the writer has endeavored to provide an historical introduction to the study of monopolies for the use of busy men who may wish to find in a single brief work a digest of a mass of information only to be obtained in a number of special treatises. For the convenience of those who wish to pursue a further investigation of the subject presented a list of the chief secondary sources of information is given at the beginning of each chapter.

The problems connected with modern monopolies are stated as clearly and concisely as possible, and it is hoped that the reader will not be satisfied with the solutions proposed but will be sufficiently interested to work out conclusions of his own.

The writer desires to acknowledge his indebtedness to the works of the authors whose names are mentioned in the text, but particularly to the works of Cunningham and Ashley, from which he has obtained much information concerning English economic history.

J. E. Le R.

Denver, Colorado,
March 15, 1901.

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I.

THE NATURE OF MONOPOLY.

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CHAPTER I.

THE NATURE OF MONOPOLY.

According to its derivation the word *monopoly* means exclusive sale. Exclusive sale is based upon exclusive possession or control of the commodity that is for sale. If at the siege of some city one man had possession or control of all the food in that city, no food could be sold without his permission. He would have a monopoly of food and would be called a monopolist. This would be monopoly in the primitive meaning of the word. But the word may be used in another sense as well. When the Hudson's Bay Company had exclusive control of the fur trade throughout the vast region drained by the rivers flowing into Hudson's Bay and the Arctic Ocean, the savages who wished to sell their furs without journeying to the distant French settlement were obliged to sell them to the great fur company. The company was the sole buyer of furs and the sole seller of fire-arms and blankets and had therefore a monopoly of the buying of furs and a monopoly of the sale of blankets. Monopoly is therefore exclusive buying as well as exclusive selling. This is absolute monopoly, where competition is absolutely excluded.

Using the word *exclusive* in this rigid sense a list of the chief monopolies existing in the United States at the present time would include government monopolies, principally the postal service; monopolies of the sale of inventions and books granted by patents and copyrights; municipal monopolies, as water-works, gas-works and tramways; the monopoly of railway service and of telegraphic service between local points; monopolies connected with the use of certain roads, bridges, ferries, canals and irrigation-works. The list would include few if any of the so-called trusts, for few if any of these have an absolute monopoly of the commodities or services in which they deal. There can be no such thing as an absolute monopoly of the sale of petroleum in any given market unless there is but one seller of petroleum in that market, unless all other sellers are permanently excluded. The Standard Oil Company is not a monopolist in this sense, for there still remain a few competitors within the United States and it is possible to import oil from Russia, though at a higher price than that of the home product. It is therefore evident that the word monopoly is not always used in its most literal sense. There is a still more extended meaning. When people speak of exclusive selling they do not mean absolutely exclusive selling, but selling that is more or less exclusive. Sometimes

competing sellers are wholly excluded. Sometimes they are only partially excluded. Where there is free, unrestricted, omnipresent competition there is no exclusion, no monopoly. Where competition is prevented there monopoly begins. Where competition dies monopoly reigns supreme, unless business also dies. Monopoly and competition vary in inverse ratio to each other. The keener the competition the less the monopoly, the feebler the competition the more complete the monopoly. Between perfectly free competition and complete monopoly there are many intermediate stages. It may safely be said that no monopoly is entirely free from the influence of competition and that seldom is competition so fierce as to leave no opportunity for monopoly and monopoly profits. Monopoly and competition are everywhere.

It is true, then, that in the industrial world monopoly and competition exist side by side, always at war but never wholly destroying one another. They exist together, but how can we distinguish them from each other? Competition we know, but how can we recognize monopoly? Both are known by the effects which they produce. When competition prevails among sellers, the price which one seller can obtain is determined by the price which another seller will accept. When there is competition among buyers, the price which

one buyer must give is determined by the price which another buyer is willing to give. Buyers and sellers control one another. They control and are controlled. They are causes and effects. The result of this interaction is what is known as a competitive price. This price is the result of the mutual regard and consideration of one dealer toward another. If now a single dealer becomes more powerful than the other dealers, so that in his transactions he ceases to have regard to the actions of these other dealers, if he still controls them but is not controlled by them, this dealer has obtained a position in the market analogous to that of a monopolist. He is a controlling power in the market and the price of the commodities in which he deals is due to his control more than to the control of any other dealer. A monopolist has no competitors. He controls the whole supply or the whole demand. He therefore controls the price. The great dealer who has a few minor competitors is able to imitate the true monopolist. He controls a large part of the supply or a large part of the demand. He therefore also controls the price to a considerable extent. As far as he is able he does the work of a monopolist and he is a monopolist to the extent of his ability. The difference between him and a monopolist is a difference of degree, not of kind. He belongs to the same family. He is a blood relation. He is a monopolist.

The power obtained by the monopolist in the economic world may be used in a variety of ways. By virtue of his position the monopolist may refuse to sell or refuse to buy. He may be haughty toward his would-be rivals, arrogant toward the public, tyrannical toward his working-people. He may say to many go and come. He may do all these things and more, yet the economic importance of his existence and activities lies chiefly in the fact that he controls the supply or the demand of what he sells or buys to such an extent that he also controls the price. We may then say that the control of price is the essential and characteristic feature of monopoly, that wherever it is absent either there is no monopoly or the economic power of monopoly is not fully exercised. A trust is a monopoly or a monopolist if it does or can control the price of what it sells or buys. It is not a monopolist if it cannot exercise this control. Let us then define *monopoly as the control of the supply or the demand of an economic good, by one person or a combination of persons, to such an extent that that person or combination of persons is able to control the price of the economic good.*

A few illustrations may serve to explain the nature of monopoly control. One of the most complete of all monopolies is that secured by a patent. Under a patent the law grants to the

patentee for a term of years the sole right of manufacturing and selling his invention. When an inventor has obtained a patent for his invention he has received the right to establish a monopoly. If he neglects to take advantage of that right and if no one else wishes so to do, no monopoly is established. If he manufactures his invention and is unable to sell it there is monopoly in name but no real monopoly, no exclusive sale. Not until the invention is recognized as having some economic value does the monopoly become effective and real. When the invention is placed upon the market its price is regulated by the patentee and not by any rival manufacturers, for none such exist. It does not follow from this that the price will be an exorbitant one, nor that the patentee will earn enormous profits. The price will not be regulated by competition between producers, but it will be controlled by the patentee in accordance with his estimate of possible sales. At a high price sales will be few. At a low price there will be many sales. The price will be fixed by a wise manufacturer at the most profitable point. The most profitable price is the price that yields the greatest net profit or the least possible loss. It may be that the article patented must be sold for a time at an actual loss. The price will be fixed at the right point by the manufacturer who understands his business. It

may be that the article will be sold at a price no higher than the price which would have been fixed by competition. It may be that the price will be even lower than that. Perhaps the invention would not have been put on the market at all without the protection of the patent. Monopoly price is not necessarily a high price. It may be high and it may be low according to the net profit that is to be obtained.

Suppose that our inventor has patented a very useful mouse-trap and that he can manufacture it in large or small numbers at a cost of two cents apiece. At twenty-five cents he may sell a thousand traps, giving him a net profit of $230. At thirty cents the sales may be reduced to 500, leaving a net profit of only $140. He decides to reduce the price. At ten cents the sales are increased to 10,000, giving a net profit of $800. At five cents 12,000 may be sold, with a net profit of $360. Again the price is raised to fifteen cents and 5,000 traps are sold, leaving a profit of $650. Plainly ten cents is the most profitable price and the monopolist after all these experiments will probably decide to fix the price at that point. If now the patent should expire and competitors should enter the field, it is probable that the price would fall to five cents, a price which would yield a fair profit but not a monopoly profit. Extreme competition might even reduce the price below

two cents but as a rule the price would not fall below the cost of production plus a margin of profit sufficient to make it worth while for a manufacturer to produce the article.

We may then say that in general competitive prices are governed by the cost of production, while monopoly prices are regulated by the desire of the monopolist to obtain the greatest possible net returns. But returns depend upon sales and sales depend upon demand and demand is conditioned by needs and needs are usually finite and limited in their nature. A monopoly is therefore limited in its power and not absolute except in the most extraordinary and exceptional cases. If a starving man with a bag of gold meets in the desert a man with no gold but with bread and water, the man who has food and drink has a complete and absolute monopoly of the same and can fix his own price. He can obtain for his bread and water all the other man's gold and a promissory note for all his worldly goods. In ordinary business life such conditions do not exist. If I cannot buy a good mouse-trap for ten cents I will content myself with a poor one. If I cannot obtain any mouse-trap at a reasonable price I will improvise a trap or will poison the mice or will adopt a cat. If I can in no way exterminate the mice without great expense I will even let them wander at will or

try to starve them out by putting meat and drink beyond their reach. The would-be monopolist must take these facts into consideration. In order to have a complete monopoly of certain mouse-traps he must needs have a monopoly of all mouse-traps, of all possible substitutes and of all human ingenuity and patience. Similarly a monopoly of food stuffs is seldom more than a very limited and temporary monopoly. A corner in wheat would be highly successful if it enabled the speculator to raise the market price of wheat by ten cents and to keep it there until he had disposed of his perilous load. In order to raise the price by fifty cents and to keep it there for any considerable time he would need to control a large portion of the world's supply of wheat. If the price went too high many people would eat bread made of Indian corn, or rye, or oats, or potatoes, or they would adopt a carnivorous diet. To obtain complete control of the price of wheat the monopolist would need to have complete control of wheat and corn and oats and rye and potatoes and beef and pork and all other meats and all fruits and all possible foods. Even where the monopoly is complete as regards the article sold, the power of the monopolist is very limited in regard to the control of prices. A tramway company may have a complete monopoly of transportation by tramway within the limits of a city

and yet find itself unable to secure its greatest profit at a higher rate than five cents. At a higher rate than this many people will use bicycles or cabs or private carriages or they will walk or they will stay at home. In short, all monopolies are more or less limited in their nature and effects. The monopolist must be content with a limited control over prices, but when any person has obtained such limited control it is proper to say that he is a monopolist to the extent of his ability.

Although it is true that monopoly is almost everywhere present, it is not true to say that all property involves monopoly. Property is due to appropriation and appropriation involves exclusive possession but it does not necessarily give the possessor of a piece of property any exclusive control over the supply of similar pieces of property, nor any control over the market price of such property. If a savage becomes the possessor of a bark canoe and if that is the only such canoe in existence and if the other savages do not know how to make similar canoes, the fortunate savage is to some extent a monopolist. He can control the price of his canoe up to the point of the offer of the most eager buyer. Beyond that his control of price cannot go. If he demands fifty beaver skins for his canoe, while the most eager buyer will give but forty, no transaction

takes place and the power of the monopolist is at an end. If now a dozen other savages construct canoes as good as the first, the price of canoes will no longer be regulated by a single owner but by competition between thirteen owners. The price will no doubt fall, unless the demand be greatly increased. In this case there is twelve times as much property but no monopoly at all, unless the owners agree among themselves in an effort to fix the price. There is sale but no exclusive sale. A single savage may value his canoe very highly and may demand an absurd price for it but he will be unable to sell it unless he can find an ignorant and credulous purchaser. If, however, one of the competing savages is able to make canoes of such excellence as to surpass all others and to command a peculiar price in the market, an element of monopoly appears again. There is no monopoly of canoes in general but there is a monopoly of this particular make of canoes. In any case the monopoly is not due to ownership alone, but to *exclusive* ownership and an effective demand resulting in control of price. Property may or may not involve monopoly. This is no fault of the owners of property, who would gladly be monopolists as well.

We must also distinguish between scarcity price and monopoly price. All monopoly depends upon scarcity but scarcity does not always involve mo-

nopoly. Eggs may be scarce in December and the price may rise, even to a great height, without any collusion or agreement between farmers or dealers. On the other hand, the rise in price may be due to an artificial scarcity produced by some capitalist who has obtained a "corner" in eggs. The latter case would be a case of monopoly, but not the former. Diamonds are naturally scarce and therefore bring a high price. If it is true that the owners of the South African diamond mines restrict the production of diamonds and thereby limit the supply in order to maintain the price, then we may say that part of the price of diamonds is due to an artificial scarcity produced by monopoly. The De Beers company controls the price of diamonds because it produces the greater part of the world's supply and it possesses the powers of monopoly to the extent of the control. It has a permanent "corner" in diamonds, based upon ownership of the source of supply.

The price of land is in general due to natural scarcity and not to monopoly. In the neighborhood of a growing city the price of land rises with the growth of the city. This is due to the increased utility of the land and to the consequent eagerness of people to buy it. The owners do not possess or exercise any control over the price, as long as they compete with one another in the

sale of their lands. The price of one acre is the same as that of another acre in a similar location. But when the owners combine to regulate prices, or when one man obtains possession of a large quantity of land, thereby obtaining a "controlling interest," we rightly say that monopoly exists. Even the owner of a single corner lot, or other small but favorably situated piece of land, may at times possess a monopoly. As long as there are other corner lots, equally well situated and for sale by independent owners, without expressed or tacit agreement, no one of them has a monopoly but when they combine to raise or maintain prices or when all the land is built upon except one corner lot, then monopoly exists, at least to some extent. The owner of such a lot, provided the demand continues, has a partial and somewhat insignificant monopoly. The owners of inferior land may compete with him but not upon equal terms. The owners of similar land with buildings on it may compete but also upon unequal terms. The price that he can demand and secure is the price offered by the most eager buyer, whereas if there were two sellers the price would be competitive on both sides and the most eager buyer might not need to pay as much as he would be willing to pay.

Any economic good may be the subject of monopoly, whether it be a thing or a material serv-

ice or a personal service. A "corner" in wheat involves the monopoly of a thing. The control of railway transportation is a monopoly of material services. The monopoly acquired by a trade-union, when it obtains control over the rate of wages, is a monopoly of personal services. In all these cases the principle is the same. By controlling the supply or the demand the monopolist controls the price.

An important distinction is that between permanent and temporary monopolies or rather between more and less temporary monopolies. In their very nature monopolies are in general temporary. A corner is the most temporary of all. Like Jonah's gourd, it springs up in a night and perishes in a night. A patent is valid only for a term of years, as is also a copyright. A railway is perhaps as permanent as any monopoly, yet we know that in time competing lines will be built. A monopoly of land is quite permanent, yet in time great estates are broken up and competition takes the place of exclusive control. Trusts and pools are formed to-day; to-morrow they break down and competition is renewed. Consolidations are completed only to raise up a consolidated competition. Monopolies may be said to be in a state of unstable equilibrium. Yet they are now more stable than formerly and they are likely to become still more stable, still more permanent.

The monopolist may be one person or more than one. It may be a company or a combination of companies. It may be the government of a town, a state or a nation. The United States government has a monopoly of the postal service. It has control of federal taxation. It has exclusive control of the army and navy. It regulates at will the administration of federal justice. In all these and in other departments the federal government exercises powers of monopoly by controlling the supply and demand of commodities and services and by regulating the prices of them. A national government is the most powerful of all monopolists. Many cities own and manage their own water-works, gas-works and tramways. their streets, sewers and bridges and owning them they exercise the powers of monopoly.

The seller of an economic good is not always the monopolist. The grocer who sells coal-oil is not the monopolist, but only his agent. Thus it is with agents and officials of all sorts. There is a power behind the throne. A tramway company may or may not be a monopolist. If the tramway company fixes its own rates, regulates its own service and provides accommodation for the public in its own way, without the influence of a competing line or of the city government, then it is a monopolist indeed. If, however, these matters are all regulated by the city government,

then is the company merely the paid agent of the city government, which is the real monopolist. Where, as is usually the case, the city government controls the business of the tramway company only in part, leaving much of the control in the hands of the company, then we may say that the powers of monopoly are divided. The monopoly is dual, two-headed. One head is the company, the other the city government.

If we seek for the primary and fundamental cause of monopolies, that cause is not hard to find. It appears on the surface of human nature and is deep seated in the human heart. People like large profits because they like small profits. Business men habitually buy in the cheapest markets and sell in the dearest. They are well pleased when they can make the cheapest markets cheaper and the dearest markets dearer. Their annual profits are dear to them as life itself. They represent the necessaries and luxuries of life, peace at home, honor abroad, comfort in old age and all the amenities of life for themselves, their wives and their children. When a man finds that he can raise the price of what he has to sell or lower the price of what he desires to buy, he is very apt to take advantage of his power without regard to that undefined and indefinable something, commonly known as a fair price. He is apt to think that a fair price is as much as he can get

or as little as he need pay and when by means of his financial strength he is able to put a pressure upon his weaker competitor and even crush him to the earth he quotes in his defense the mercantile version of the golden rule, "Do unto the other feller the way he'd like to do unto you — an' do it fust." While economic conditions are as they are it is wise to be sparing in administering praise or blame to people who live within the letter of the law, who take as much as the law allows and give as little as the law requires. These legal people may or may not be moral but who is to be their judge? Who is to pluck out the mote? Who is to remove the beam? "He that is without sin let him cast the first stone."

II.

MONOPOLIES IN ANCIENT AND MEDIAEVAL TIMES.

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CHAPTER II.

MONOPOLIES IN ANCIENT AND MEDIÆVAL TIMES.

Historians have in the past given us but little insight into the daily life of the people. They have described the startling events that lie on the surface of a nation's history and have said little or nothing of the economic conditions beneath the surface. The former are superficial, the latter fundamental. The startling events are but effects, of which economic conditions are the causes. We know much about wars, politics, heroes, statesmen, kings, nobles and the like, but we have little knowledge of farmers, fishermen, miners, artisans, merchants, methods of business, domestic and foreign commerce. If we knew more about these things we could understand history better and learn more from the study of it.

Because of this misdirection of energy on the part of historians and chroniclers it is very hard to obtain any definite information about the economic history of ancient and mediæval times. Yet we know that economic conditions did exist. Although the organiation of society was largely military in its character, this military organization did not at first exist for its own sake but for

the protection of life and property and for the increase of wealth by conquest. Wars of conquest were for slaves, for tribute, for land and for the extension of commerce. Other objects were subordinate to these.

From the points of view of politics, religion and literature we distinguish between ancient and mediæval history. From the point of view of economic history it is hard to draw any clear line of demarcation. From the time of the Pharaohs to the discovery of America, if not to the beginning of the industrial revolution in the eighteenth century, there was no sudden or very rapid change in the methods of agriculturists, fishermen, miners, craftsmen or merchants and the ancient economic conditions have survived in countries like China until the present day. Under such primitive conditions we cannot expect to find and we do not find a highly developed system of transportation by sea and land, a postal union, an electric telegraph or a modern trust. Modern monopolies are the result of modern industrial progress and are of recent origin. In early times there were monopolies but they were primitive in their nature. We read of royal monopolies of brick and syenite and papyrus in Egypt, of royal monopolies of wheat and purple among the Phœnicians, of state monopolies of lead mines and of banking among the Greeks, of

various state monopolies in Rome, notably the monopoly of salt. By means of these monopolies the governments of ancient times derived a considerable part of their revenue. When conquests took place the conquered territory was exploited for the benefit of the conquerors. Rome thus became the great monopolist of the world, when the most distant provinces, as well as the nearest, were drained of their wealth to feed and amuse the Roman populace. Farmers of the revenue were monopolists in a stricter sense, for they made use of their exclusive privileges to exact the uttermost farthing and after that to require in taxes and blackmail more than the law allowed. No wonder that people spoke of "publicans and sinners." The spirit of monopoly pervaded foreign commerce. For a thousand years the merchants of Tyre and Sidon maintained exclusive privileges of trade throughout the greater part of the Mediterranean and the Black Sea and in later times the commercial supremacy and the monopolistic spirit of Carthage brought about the unshaken conviction of the Roman Cato that "Carthage must be destroyed."

The modern "corner" was not unknown in ancient times. We find at least two characteristic examples mentioned in the Old Testament. One account describes Esau returning from the chase in a famished condition and asking his

brother Jacob for the means of subsistence. Jacob appears to have had control of the food supply and to have taken advantage of his monopoly to the full extent. The price was fixed by Jacob. He demanded his brother's birthright and the price was not denied him. Jacob's son Joseph seems to have inherited his father's business ability. By means of a lucky dream he became a royal grain dealer in Egypt. When wheat was plentiful he bought largely at market prices. When wheat become scarce Joseph did not hasten to sell. When all the other corn dealers had sold their stock the people came to Joseph as the sole source of supply. Joseph sold them corn at prices fixed by himself and so high was the price that during the first year of famine the people paid all their money to the monopolist. During the second year they paid their horses, their flocks, their cattle and their asses. At last they gave their land and sold themselves as slaves to Pharaoh. That events such as this were common in those days can hardly be doubted. Famines were frequent and prudent speculators had many opportunities for obtaining monopolistic gains. That grain dealers among the Israelites were not uncommonly monopolists as well, is evident from the proverb, "He that withholdeth corn the people shall curse him, but blessing shall be upon the head of him that selleth it."

Grain dealers have been regarded with suspicion at all times, especially in countries subject to famine, or where the supply of grain came from abroad. The Athenians were especially jealous of the corn factors who bought grain from the ships at the Piræus and sold it in Athens at advanced prices. It was claimed that they combined with one another to secure high prices. The services rendered by them were overlooked, especially in times of scarcity. It was asserted that they often sold on the same day grain they had purchased, obtaining a profit of a drachma (19c.) on the medimnus (1½ bush.). This was considered exorbitant. Laws were made to control prices and profits. No dealer was to be allowed to buy more than fifty phormi (baskets) of grain at a time and he was not to charge more than an obol (3c.) as profit upon each basket. The state appointed officers called *sitophylaces* to oversee the grain trade in Athens and the Piræus and to have inspection also of bread and meal. In the time of the orator Lysias a number of corn factors were accused of having bought up a large quantity of grain and of having sold it at too great a profit. Lysias made a violent speech against them, demanding that they be put to death. He describes their practices in words that sound strangely modern. "They buy up grain, under the pretence of caring for the public welfare or of having a commission from

the magistrates. But when a war tax is imposed, their pretended public spirit is not maintained. They gain by the public calamities. They are so well pleased with them that they have the first news of them or even invent news, as for instance that the ships in the Pontus have been taken or destroyed, that ports are closed, that treaties are revoked. Even when the enemy are quiet they harass the citizens by accumulating grain in their storehouses and by refusing to sell in time of the greatest scarcity in order that the citizens may not dispute with them about the price, but may be glad to procure grain at any price. In the case of other criminals ye have to learn their offence from the accusers, but the wickedness of these men ye all know. If then ye condemn them ye will act justly and make corn cheaper, but if not, dearer." The orator displays great ignorance of the natural laws which control the rise and fall of prices or he completely ignores them but it is evident that the grain dealers of his day, like those of modern times, were not averse to obtaining control of prices when they could.

A real and somewhat permanent monopoly of grain was held by Cleomenes, Alexander's satrap of Egypt. Through his command of the world's granary he accumulated great hoards of grain and was able to control prices throughout the Mediterranean countries by sending his ships only

to places where grain was scarce and prices high. He is said to have bought grain at ten drachmæ and to have sold it at thirty-two drachmæ. In Athens prices rose considerably, until grain was imported from Sicily when competition was re-established.

During the Middle Ages, as well as in Ancient times, the people at large, learned and simple, looked with suspicion upon the business methods of merchants or middle men. They were not supposed to perform any great service to the community and their profits were thought to partake of the nature of robbery. The practice of "forestalling," or buying directly from the producers for future sale, was considered disreputable. When a merchant intercepted peasants on the way to market and bought their pigs, sheep, hides, vegetables and grain for the purpose of selling them again in the open market, it was thought that he had taken an unfair advantage of his fellow-townsmen. The country people ought to be allowed to come to market and to stay there until the townspeople had bought all they needed at low prices.

After that, if anything were left, the hucksters might buy it up and keep it for future sale and the farmers might go home in peace. Forestalling was monopoly and robbery. The good citizens forgot that when the merchant relieved the

farmer of his products he performed a service to the farmer and to the citizen as well and that the merchant's profits were in general little more than the equivalent of wages for services rendered. It is doubtless true that the merchant did at times obtain unusual profits, due to some temporary monopoly. Because of these occasional corners and because of the riches of successful merchants, the methods whereby they obtained their wealth were considered nefarious to the last degree. Inseparable from successful forestalling was the practice of "engrossing" or buying at wholesale and this was also thought to be a dishonorable or at least a questionable practice. The man who buys in large quantities often obtains control of the market price to the detriment of the consumer who buys at retail and perhaps to the injury of his fellow-merchants, who are unable, because of limited capital, to deal on so large a scale. Forestallers, engrossers and regraters were alike feared and hated by the people.

Just as the Athenians made laws against the corn factors, so the mediæval town governments and even the national governments often enacted stringent laws against forestallers and engrossers of commodities of all kinds. A typical case is recorded in the reign of Edward III. It appears that the hotel-keeper of Yarmouth had been in the habit of making special bargains with the fish-

ermen and thus forestalling the fish before they were exposed for sale in the open market and even before they were landed. A statute was therefore passed in the year 1357, fixing a maximum wholesale price and the rate of profit on re-selling and requiring the fishermen personally to sell their fish on the open market. The statute was a failure. Besides the difficulty of enforcing the law, it was found that the fishermen could do better by spending their time in fishing, rather than in selling on the market and that the consumers did not gain what the forestallers lost.

During the latter part of the fifteenth century and the beginning of the sixteenth century, there was a general rise in prices throughout England, largely due to debasement of the coinage but popularly attributed to combination among producers and middle men. The landowners were said to have combined to raise rents. The graziers were accused of having combined to keep up the price of wool. The laborers were supposed to have united to secure higher wages. The merchants were said to have combined to engross commodities in general. In the reign of Edward VI, severe laws were passed against the engrossing of "corn, wine, fish, butter, cheese, candles, tallow, sheep, lambs, calves, swine, pigs, geese, capons, hens, pigeons and conies." It is not recorded that these laws were in the end ef-

fective in any way except in restraint of trade and when gold and silver from Spanish America began to flow into the channels of trade it became evident that prices might rise while products were plentiful without the agency of forestallers and engrossers.

The people of the Middle Ages were convinced that producers and merchants could not be trusted to sell at reasonable prices. They made a distinction between a fair or reasonable price and the unfair and unreasonable price which a seller could demand and get, because of his control of the supply of a commodity or because of shrewd bargaining and the ignorance of buyers. This unfair price was often what we now call monopoly price but more often it was nothing but a scarcity price. In any case it was thought necessary to make laws fixing reasonable prices and the legislation of these times is full of laws regulating prices and fixing rates.

In the case of most of the crafts, prices and rates of profit were in general regulated by their own officers but the "victualling crafts" were subject to special control by the national and civic authorities. As early as the time of Charlemagne we find in Frankfort an ordinance fixing a maximum price of corn and of food, without due regard to good or bad harvests. In general the authorities were contented to allow the price

of corn to be fixed by the natural relation of supply and demand, but they insisted on controlling the price of bread. In the reign of Henry II, we find in England what was called the Assize of Bread. According to this law the weight of a farthing loaf of bread was to vary with the price of wheat. When wheat was low the farthing loaf was to be large but smaller when the price of wheat was high. In this way it was thought possible to limit the baker to a fair profit or rather to a living wage. Similar restrictions were imposed by the Assizes of Ale and Wine and there was also the Assize of Cloth, which controlled the length, breadth and quality of cloth and a special officer, the Aulnager, had authority to enforce the law. The people at large were convinced of the necessity of vigorously enforcing the assizes in order that provisions might be sold at fair prices and demanded, with Piers Plowman, that delinquent brewsters, bakers, butchers and cooks be "punished on pillories and pinning-stools."

Similar to the assizes were the attempts made to regulate wages, especially after the Black Death of 1348, which is said to have destroyed nearly half of the entire population of England, causing a terrible scarcity of laborers. The Ordinance and Statute of Laborers of 1349 and 1351 enacted that laborers, carpenters, masons, plasterers, shoemakers and other craftsmen having no other

means of livelihood were not to refuse to work for anyone offering the rate of wages that prevailed before the plague. At the same time the law fixed maximum prices for corn and other food stuffs. This legislation failed to produce the desired effect. The price of food rose, because of scarcity and because of debasement of the coinage. Laborers were few. They could not live on the old wages and they would not accept low wages when employers were competing for their services. The laws worked only hardship when they were enforced. The penalties were severe, imposing fines and imprisonment and even branding with the letter "F" when the laborer "falsely" broke faith with his employer and escaped to other service.

The doctrine of a fair price and a fair day's wage for a fair day's work was supported and enforced by the Church according to the principles of the Gospel as then understood. Thomas Aquinas wrote on the subject as early as the thirteenth century and the economic principle of the Church became an integral part of the Canon Law toward the end of the fifteenth century. The churchmen of the Middle Ages were economists and ethical philosophers as well. They held that economic relations between man and man ought to be and might be also just relations. They believed in a fair wage, a wage sufficient to maintain

the worker and his family according to the standard of living of the class to which he belonged. There was a fair wage for the farm-laborer, a different wage, also fair, for the artisan and a still different yet equitable wage for the merchant. A fair price was such a price as would enable the seller to carry on his business and to maintain himself at the customary standard of living. A fair profit was such a profit as would adequately reward the merchant for his trouble in bringing his wares to the market. According to Aquinas, "Trade is rendered lawful when the merchant seeks a moderate gain for the maintenance of his household or for the relief of the indigent and when his trade is carried on for the public good, in order that the country may be furnished with the necessaries of life and the gain is looked upon not as the object, but as the wages of his labor."

According to these principles it was thought advisable to fix rates of wages and profit and thereby to establish fair prices and thus to prevent excessive competition, on the one hand, and the profits of monopoly on the other. Such interference with trade can hardly have been beneficial on the whole and must have hindered economic progress. The laws were often evaded but often enforced. It was possible to enforce them to a considerable extent in those days, when towns were smaller and trade was almost prim-

itive in its methods and extent. There must be, as the Canonists thought, an ideal wage for every class of workers. It is not a question of the existence of the ideal as an ideal but of the possibility of realizing it.

It was on this rock that the mediæval public economy struck and was wrecked. Under the most favorable conditions the restrictions were hard to enforce and the rulers were obliged to admit of many exceptions inconsistent with their theories. As trade expanded and cities grew in population and wealth and as foreign commerce increased, it became more and more difficult to maintain the old system. The municipal and manorial economy of the Middle Ages by degrees gave place to the modern system of unrestricted competition. Competitive prices may not always be fair prices but the injustice is thought to be exceptional and comparatively insignificant. On the whole and in the long run it is held that free and unrestricted competition will secure fair wages, fair profit and fair prices, favor to none, justice to all, progress and prosperity for rich and poor.

The world moves in advancing cycles. First we have the monopolistic spirit of the Middle Ages. Then we have the competitive spirit of the industrial revolution. Again we pass into a period of monopoly and restriction of competition. In the

first period we find public control and regulation of industry. In the second period we have the system of industrial liberty. May it not be that we are returning to a system of public control like and yet unlike that of Ancient and Mediæval times? The doctrine of the Canonists revives in the teaching of modern Socialists. The ideals resume their sway over the human mind, new in form but old in spirit. As ever they demand recognition, they call for realization.

III.

GILDS AS MONOPOLIES.

CHARLES GROSS, "The Gild Merchant," Oxford, 1890.

J. M. LAMBERT, "Two Thousand Years of Gild Life," Hull, 1891.

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CHAPTER III.

GILDS AS MONOPOLIES.

The word *gild* is probably derived from an Anglo-Saxon word meaning *to pay*. The same word meant also *to worship*. Even in modern times there is often an intimate connection between worship and payments. The gilds were unions or clubs or organizations or associations of people, joined together for specific purposes and maintained by the fees or contributions of the members.

The earliest Anglo-Saxon gilds were religious and social in their nature, existing for purposes of worship, for burying the dead or for the celebration of feasts. Somewhat later were the frith gilds, which are mentioned as early as the beginning of the eighth century. These were organizations of men for mutual protection and for the capture and punishment of criminals. It appears that the formation of frith gilds was encouraged by the Saxon kings and that every freeman was expected to belong to such a gild. If he committed a crime his gild brethren were expected to bring him to trial and to become sureties for the payment of fines imposed on him. If he were in-

jured, his gild brethren endeavored to bring the offender to justice. The gild system is thus seen to be an expansion of the more ancient family organization.

Merchant and craft gilds appear to have been of later origin. There is the barest trace of them in Saxon times, but they certainly existed in early Norman times. It has been stated that these gilds must have had their origin in England. This is by no means certain. It is not improbable that they may have originated in very ancient times. The Roman *collegia* and *sodalicia* appear to have been similar to the mediæval gilds. As early as the reign of Numa no fewer than eight associations of craftsmen existed in Rome, flute blowers, goldsmiths, coppersmiths, carpenters, fullers, dyers, potters and shoemakers. The experience of the Apostle Paul at Ephesus points to an organization of some sort among the silversmiths of that city. Although very little is known of these ancient societies, it may be that they existed in the towns of Gaul and Britain and in other parts of the Roman Empire. When the German tribes invaded the Roman provinces they did not in general destroy the towns and the germs of the ancient organizations may have lingered there, to spring up with renewed vigor in the eleventh and twelfth centuries. We find mention of an organization of locksmiths in a French town as early as

the fifth century and a corporation of bakers is mentioned in the time of Charlemagne and an association of goldsmiths some years later.

Whatever may have been the origin of the gilds, it is certain that they played an important part in the economic life of the Middle Ages, especially in England, where their liberties and privileges were secured against feudal encroachment by the favor and protection of the kings. When the towns obtained charters of liberties the powers of municipal government were granted to the gilds. It is thought that the merchant gilds at first obtained control of the town government and that the craft gilds were afterward admitted to civic power. In order to have a share in the government of the town it was necessary for an inhabitant to be a free member of some gild. The gilds had therefore a monopoly of town government and the town was governed in the interests of the gild members. Since, however, a large proportion of the residents in any town must have been members of one or other of the gilds, the town government was to a large extent democratic in its nature. It was not until later times, when the population of towns increased and the gilds became more and more exclusive, that their monopoly of municipal government was felt to be burdensome and oppressive.

The people who were not gild members then

began to demand a share in municipal government. Gradually the modern popular system of municipal government was introduced but in the city of London at the present day the ancient gild system still survives and the lord mayor, aldermen, councilmen and other officials of the *City* are still elected by the members of the livery companies or gilds. The twelve great livery companies of London are the Mercers, Grocers, Drapers, Fishmongers, Goldsmiths, Skinners, Merchant-Taylors, Haberdashers, Salters, Ironmongers, Vintners and Cloth-workers. The members of these gilds consist of merchants and gentlemen, few, if any of whom, have any connection with the trade to which they nominally belong. There are statesmen who are mercers, generals who are haberdashers, scientists who are fishmongers. The great companies of London are very rich and very exclusive but their power is now comparatively limited and is gradually passing away.

Among the earliest craft gilds in England and on the Continent were the gilds of weavers. They are mentioned in English history as early as the year 1130. In the year 1180 we read of the London gilds of goldsmiths, butchers, pepperers and cloth-finishers. By the end of the thirteenth century all the important crafts were organized into gilds. At that time there were in London no less

than sixty companies or crafts, each with its own organization, officers and rulers.

The craft gilds might be called mutual benefit societies or associations of craftsmen banded together for the furtherance of their common interests. They were exclusive associations. As a rule no man could become a shoemaker unless he entered the gild through the doorway of apprenticeship. When he had completed seven years, more or less, of bondage under a master shoemaker, the apprentice became a journeyman and was permitted to work for other masters. When he found himself able to acquire a shop of his own and to establish himself in business he became a master shoemaker and a full member of the gild. He paid his fees at stated times and incurred fines when he transgressed the rules. He made boots and shoes according to the standards set by the officers of the gild. He sold them at prices fixed by the same authorities. He employed as many journeymen and apprentices as the gild allowed. He paid his men according to the appointed scale of wages. He attended the meetings of the gild and enjoyed the society and conviviality of his brethren. At the annual meeting he voted for the election of gild officers, whether they were called wardens, aldermen, searchers, overseers, bailiffs or masters. On the feast day of the gild's patron saint he went in procession to the

church. In time of war he marched in the train-bands beside the brethren of his craft. In poverty he received aid from the common fund. In sickness his brethren visited him. Dying in poverty he was buried with shoemakers' rites at the expense of the gild, while the same benevolent association had masses said for the repose of his soul and provided for the support of his widow and orphan children. His children after him were shoemakers unto the third and fourth generation.

The gilds were known by a variety of titles. In the history of the gilds of Kingston upon Hull we read of the Company of Weavers, the Craft of the Glovers, the Mysterie of Berbruers, the Gild of Tailors, the Fraternity of Carpenters, the Society of Shipwrights, the Fellowshippe of Cordwainers and Shoemakers, the Brotherhood of Barber-surgeons.

The gild regulations were as various as their titles. The following specimens taken from the rules of various trades give an idea of the objects sought and how they were attained.

"No one to take a felowe to work without consent of the Gild."

"Item, that no man sett up a loome within hys howsse, but if he have been prentyse VII yere at the occupacon, under payne of ten pounds."

"Non alian shall worke or sett up in this town withoute licence of the mayre."

"There shall no woman worke in any warke concernyng this occupation within this town."

"None to take an apprentice or workman aliant-born."

"None to sett up but he be abled by the alderman and the searcheours."

"None to be admitted but free burgesses of the town and none but members to set up shop."

"No person shall buy any lether belonging to the glovers' trade to sell the saime again, unless he be a free burgess and free of the said company of glovers."

"It shall be lawful for the widow of any weaver to use and occupy the said trade by herself, her apprentices and servants, so long as she continues a widow."

"No master of the said crafftt to take a prentice for less space than seven years, and then by indenture."

"No person or persones shall buy any lether belonging to the glovers trade here or ellswhere to the end to sell the same again within this towne, unless he be free burgess and free of the said company of glovers."

"If any barber who is a foreigner shall draw teeth in any part of the town except in a barber's shop he shall forfeit twelve pence each time."

"Item that no tallyor give no garmente to worke or sewe to anny other mans servants before he departide from his master's service."

"Neither that any musicion not free burgess of this same towne and free of the saide company of goldsmiths and smithes shall within this town keep any daunsing schoole."

"None of this brotherhood shall have above two apprentices at once."

"No inhabitant within this towne not free of the saide company of bakers shall bake any cakes to the end to sell again upon paine of every time two shillings."

"A showmaker may become a cobler, but must use that trade of coblinge only."

"No cobler to amend shoes or bootes with bad stuffe or at unreasonable rates or keep them longer than two daies."

"Item the same searchers shall well and dyligentlie searche and trie all bowtes, shoes, buskynnes, startuffes, slippers and pantofles, whether yat they be maide of any lether but of lether well and trewlie tanned and curried or of lether well and trewlie tanned onlie and well and substancyallie sewd with good threde, well twysted and maide and sufficientlye waxte with waxe well rosened and the stitches harde drawne with hande lethers."

"Searchers to viewe and search all lether waire, to seize all bad work."

"Item it is ordained yat none of yat occupacion be at any debate between one and another contrarie to good order, but to be lovinge and friendlie one to another."

"No married stranger to work in any shop on penalty of five pounds."

"No strange tailers to fetch work out of town to make, on pain of five shillings."

"No butcher or cook to sell other than nice looking and clean food under penalty."

"No one shall set any woman to work other than his wedded wife or his daughter."

"It shall be lawful to mayor and alderman justices at all tymes to sett prices of doble bere and merchante bere, otherwise called shippebere."

"No brother to take any boy or child for his second apprentice but such as are born and remaining in the town."

"It is ordayned that none of the sayd craft withholde no salary fro his servant on a certeyn day of payment between theym appoynted."

"No maister to withhold his servant's wages over six days."

"Not to work after 9 P. M. on Saturdays."

"Any brother suspecting any journeyman of getting married to report to the mayor and discharge him forthwith."

"Item that every brother of this saide brotherhood shall bring up reverentlie their servauntes in the feare of God."

"Every brother to bring his servants and prentices to Church on the Sabbath and to restrain them from unthriftely using taverns and alehouses and unlawful games."

"Any craftsman who shall brybe, purloyne or stele above seven pence and to persist, to be cast out utterly forever."

"Brethren and sisters to have the lights at their decease and if in poverty to have them freely."

"Fynes to be departed in two, the one halff thereoff towarde the fyndyng of a light by for the image of our lady of Pyte within the trinitie church of Hull and the other halff to the comyn wele of the sayd town."

It may be seen from these and many other regulations that the craft gilds were monopolists in intention, if not in fact. To a large extent they exercised a control over the prices of commodities, the quality of wares and the wages of servants. The number of persons allowed to enter a given trade was restricted as far as possible. Competition was prevented and thereby monopoly profits were secured. At the same time there were many beneficial regulations such as those concerning the quality of work, which secured to the consumer a good article if not always a fair price. Also in many cases gild membership was open to any who had completed the required

years of apprenticeship and who paid the necessary fees. Competition among the members of the same craft must have prevented the existence of any very strict monopoly and prices could not have been much higher than free competition would have secured.

As time went on and the towns increased in population the gilds found it more and more difficult to maintain their privileges and to enforce their rules. The rules grew more severe as they became more ineffective.

The people frequently complained. Outsiders demanded admission. As early as the year 1321 the weaver's monopoly was a grievance in London. In the year 1437 it was stated that the gilds set the local authorities at defiance and worked injury to the people. The preamble to an act in redress of these grievances declares that "masters, wardens, and people of gilds, fraternities and other companies corporate, dwelling in divers parts of the realm, oftentimes by color of rule and governance and other terms in general words to them granted and confirmed by charters and letters patent of divers Kings, made among themselves many unlawful and unreasonable ordinances as well in prices of ware and other things for their own singular profit and to the common hurt and damage of the people." The act required that gild ordinances be in future

submitted to justices of the peace and recorded by them.

In the end it became impossible for the gilds to prevent craftsmen, not gild brethren, from selling their goods and plying their trades. The economic power of the gilds disappeared. Prices came to be regulated by competition and the gilds contented themselves with retaining control of the town government. This final monopoly did not pass away until the nineteenth century and a few relics of it still remain. Craft gilds still exist in Asia and in the less civilized countries of Europe, where they still maintain their exclusive spirit and exercise the powers of monopoly to the extent of their ability.

As handiwork in the Middle Ages was regulated by the craft gilds, so buying and selling was largely in the control of the merchant gilds. As early as the year 1087 we find mention of a merchant gild or hanse established in the town of Burford in England by a charter granted by the lord of the manor.

From that time on merchant gilds were closely connected with the government of the towns in which they were. In many cases the officers of the gild merchant were also the chief officials of the municipality. The craftsmen were considered inferior to the merchants and were not at first admitted to a share in the government. Mer-

chant gilds were organized in all the principal English towns as these towns obtained charters of freedom from king or baron. The charter of Newcastle-under-Lyne, granted by Henry II reads as follows: "That our town of Newcastle-under-Lyne be a free borough, and that the burgesses of that borough have Gilda Mercatoria in the said borough, with all the liberties and free customs to such Guild Merchant in any way belonging, and that they may pass through all our dominions with their merchandise, buying and selling and trafficking well and in peace, freely, justly and honorably."

The only merchant gild still surviving in England is that of Preston, whose charter was granted by Henry II toward the end of the twelfth century. Among the "Liberties of Preston" may be mentioned the following,—

"That they shall have Gild Mercatory with Hanse and other customs and liberties belonging to such Gild, so that no one who is not of that Gild shall make any merchandise in the said town unless with the will of the burgesses."

"If any nativus dwell anywhere in the same town and hold any land, and be in the forenamed Gild and Hanse and pay lot and scot with the same burgesses for a year and a day, then he shall not be reclaimed of his lord, but shall remain free in the same town."

"If anyone wish to be made a burgess he shall come into court and give to the Reeve twelve pence and shall take his burgage from the Pretors."

"No one can be a burgess unless he have a burgage of twelve feet in front."

"A stranger may not participate in any merchandise with the burgesses of the town."

"If a burgess shall sell for more than the assise he shall be in mercy twelve pence."

"If a burgess marry his daughter or granddaughter to anyone, he may marry her without the license of anyone."

"It is the custom of the borough that no burgess ought to be taken for an accusation by the lord or by the Reeve if he have sufficient pledges."

"If a burgess wound another and they be willing to agree amicably, friends appointed between them may require for every hidden cut the breadth of a thumb, four pence, and for every open and visible wound eight pence, and whoever is wounded may prove what he has lost by the wound and the other shall pay him."

The regulations of other merchant gilds were similar to these. They were monopolistic in spirit but the tendency to monopoly was modified to a considerable extent by various circumstances. The admission fee was often fairly low and there-

fore the gilds merchant were not, strictly speaking, exclusive corporations. There must have been more or less competition between burgesses or gild members. Merchants from other cities at times had privileges of trade throughout the Kingdom. There were frequent fairs, to which came merchants from abroad as well as from other English cities. There were national and municipal laws against forestalling and engrossing, which to some extent prevented excessive profits and the assizes of bread, wine, ale and the like had the same effect.

As trade was regulated and controlled within the towns by the merchant gilds, so the foreign trade of England was largely in the hands of the Merchants of the Staple. It was thought best by the Kings of England not to allow English goods to be exported freely but to divert the trade to one or more ports called staple towns. Only at a staple town (*stabile emporium*) could English goods, such as wool and leather, be sold to foreign merchants. At first the English staple was fixed at some foreign town, as Bruges or Antwerp. Afterward certain English towns were designated as staple towns and foreign merchants were invited to come to England to buy. Again the staple was fixed at Calais and again at Bruges. At a staple town the trade was regulated by the Mayor and Aldermen of the Staple. The mayors

were at first nominated by the King, but afterward by the Merchants of the Staple.

The organization of the Staple was due chiefly to two reasons, first to the desire of the King to simplify the collection of his revenues and secondly to the need on the part of the English merchants for mutual protection and aid while trading in foreign lands. No doubt the Merchants of the Staple had special advantages and privileges not granted to other merchants and the staple towns certainly enjoyed a monopoly of English export trade. The institution of the Staple arose about the middle of the thirteenth century and did not finally die out until the eighteenth century.

Similar to the English Staple was the German Hanse, at first an association or gild of German merchants trading in London, but afterward a great league embracing at one time as many as eighty-five principal German cities, carrying on an immense and highly profitable trade with England, Scandinavia, Russia and other countries. Like the Merchants of the Staple the German Hansards united with one another for mutual protection and for the securing of trading privileges in England and other countries. Merchants not belonging to the Hanse did not enjoy these privileges and had little or nothing to do with German export and import trade.

The origin of the German Hanse is very ob-

scure. In Anglo-Saxon times the "Men of the Emperor" were established in London and were granted special trading privileges. In the reign of Henry II the German Hanse seems to have been composed largely of merchants of Cologne who had a hanse-house, the Steelyard, in London and enjoyed special privileges, including the royal protection and exemption from exactions levied on other traders. Trade in those days was always preferential. Merchants who did not obtain concessions could not compete on equal terms with the favored merchants. German merchants wishing to trade with England were therefore obliged to join the Hanse, which presently included merchants from other German towns, as Bremen and Hamburg. In the thirteenth century the town of Lübeck was admitted to the league and soon occupied the position of leadership which formerly belonged to Cologne. Under the leadership of Lübeck the Hanseatic League became a most powerful confederacy, dominating the trade of the Baltic and the North Sea and indeed of nearly the whole of Europe north of Italy.

The mercantile policy of the League was regulated by a general assembly which met once a year, usually at Lübeck. There was a close connection between the League and the merchant gilds which controlled the government of the various towns, so that what was at first merely an

association of merchants became a league of cities bound together by what was practically an offensive and defensive alliance. To maintain their privileges and monopolies they frequently carried on war, especially with Denmark, and they even interfered in England during the Wars of the Roses. They had several great centres of trade, where they established hanse-houses and trading colonies. The chief of those were London in England, Bruges in Flanders, Bergen in Norway, Wisby in Sweden and Novgorod in Russia. The power of the League attained its highest point about the time of the Treaty of Stralsund in the year 1370 after a successful war with Denmark. During the greater part of the fourteenth century it maintained its power and privileges but toward the end of that century its greatness began to pass away.

Several causes contributed to the decline of the League. The minor cities of the League were jealous of the supremacy and selfishness of Lübeck. Within the towns there were internal disturbances due to conflicts between the merchant and craft gilds. The German princes were increasing their power at the expense of the free cities. The Scandinavian countries objected to the commercial tyranny of the Hanse towns and made war on them. The discovery of America and the finding of the Cape route to India diverted

trade from the customary channels. The discovery of the ocean route to the White Sea in 1554 by Richard Chancellor introduced English competition in Russia and caused the decline of the Hanseatic trade with Novgorod. English merchants, especially the Company of Merchant Adventurers, encroached upon the German trade in the North Sea and broke down the Hanseatic monopoly in the Baltic Sea. This movement was aided by Queen Elizabeth, who sent an armed expedition against the Hansards and also deprived the Hanse merchants of their special privileges in London. To crown their misfortunes, the herring began to leave the Baltic Sea and went to the coast of Holland. Because of these and other causes, the League gradually declined until it was finally ruined by the terrible Thirty Years' War (1618–1648).

The great rival of the Hanseatic League in the sixteenth and seventeenth centuries was the Company of Merchant Adventurers, which had received a charter of privileges in the year 1407 as the Brotherhood of St. Thomas Becket. This company, like the Merchants of the Staple, was an offshoot of the Mercers' Company, whose patron saint was Thomas of Canterbury. It marks the transition between the mediæval gilds and the later trading companies like the British East India Company. It was primarily a London company, but had branches at Exeter and Newcastle.

At first anyone might become a member by paying the "haunce" or "freedom fine" of six shilling and eight pence, but soon the fine was raised to one hundred shillings and then to forty pounds, which produced in 1497 a great outcry among merchants in other parts of England. The fine was therefore reduced to less than seven pounds, still a great sum in those days. In the year 1505 Henry VII granted the company a charter under the name of the Fellowship of the Merchant Adventurers of England, with further exclusive privileges, and their commercial position and influence soon became very great. At the beginning of the sixteenth century the company had over four thousand members. It is stated that in 1550 they employed twenty thousand persons in Antwerp alone.

The company is thus described in its own records of 1601: "The company consists of a great number of wealthy merchants of divers great cities and maritime towns in England,— London, York, Norwich, Exeter, Ipswich, Newcastle, Hull, etc. These of old times linked themselves together for the exercise of merchandise by trading in cloth, kersies, etc., whereby they brought great wealth to their respective places of residence. Their limits are the towns and ports lying between the river Somme and all the coasts of Netherland and Germany within the German Sea: not unto all at each man's pleasure, but unto one or two towns at most within the said bounds, which they

commonly call Mart towns or Towns, because there only they stapled their commodities and put them to sale and thence only they brought such foreign wares as England wanted and which were brought from far by divers nations flocking thither to buy and sell as at a fair." The regulations of the Merchant Adventurers were similar to those of the Gilds and the Merchants of the Staple. In the words of Cunningham, "No one might trade at odd times or in secret places, but fairly and openly; a minimum price was fixed and no one was to spoil the market by taking less; thus one man did not try to undersell others. Similarly the "stint" was intended to prevent any one dealer from engrossing the whole trade. The adventurers contended that these regulations benefited merchants, as they insured a steady trade with no violent fluctuations and thus their rules really conduced to the public weal, while they denied that there was any monopoly, as the merchants competed with one another within the prescribed limits, and the whole body was subject to competition with the Hanse and other alien merchants."

It is evident, however, that the profits of the Merchant Adventurers were above the level that would have been secured by free competition, for it was profitable for independent merchants, called "interlopers," to run the risk of intrenching upon their trade. Their rules and agreements, also,

must have operated to some extent in restraint of trade. Notwithstanding the protests of outsiders and of rival companies, the Merchant Adventurers continued to enjoy their special privileges until well into the eighteenth century.

The Company of Merchant Adventurers was not the only association of English Merchants possessing special privileges in foreign trade. In the year 1581 Elizabeth granted to the Levant Company also called the Turkey Company the exclusive right of trading with Turkey. In the year 1605 the company received a charter, confirming and extending its privileges. Any English subject could become a member of the company on payment of an admission fee of twenty-five pounds. Adam Smith called it "a strict and oppressive monopoly." Its charter was surrendered in the year 1825. The Eastland Company, chartered by Elizabeth, enjoyed exclusive rights of trade in the Baltic Sea. Its admission fee was at first very high but in 1672 it was reduced to forty shillings. The Muscovy Company, afterward called the Russian Company, was originally a joint-stock company, founded by Sebastian Cabot in 1553 and chartered in 1555. Later it became a regulated company, open to all who could pay the admission fine but the fine was so high as to make it practically exclusive. The company opened up a great trade with Russia by way of Archangel. Still another company was the Society of the Merchant

Adventurers of Exeter, incorporated by Elizabeth.

These and a few other regulated companies controlled for a long time the entire foreign trade of England. They mark the transition between the mediæval gilds and the later joint-stock companies. Because of the high admission fee they were open only to the richer merchants, who were constantly at war with outsiders or interlopers.

The merchants traded independently with their own capital but competition was restricted by various regulations. They enjoyed monopoly powers only in so far as they were able to maintain a level of prices higher in selling and lower in buying than would have existed under free competition. This control of prices must have been largely prevented by competition among the privileged merchants themselves, by the competition of foreign merchants, of English interlopers and of merchants who enjoyed special dispensations granted by the King. These special dispensations were frequently granted either to royal favorites or to persons who paid well for the privilege. In the year 1449 one John Taverner of Hull received a special license to trade with Italy and is said to have acquired a great fortune thereby.

In those days it was not thought wise to allow freedom of trade. Even so great a man as Francis Bacon said: "I dare not advise to adventure the

great trade of the Kingdom, which hath been so long under government in a free and loose trade." The evils of competition were well understood. Its advantages were not so clearly perceived. The benefits of system and organization in trade and commerce were fully appreciated. The unfairness and damage produced by privilege, discrimination, favor and monopoly were largely overlooked. There was much conflict of interests within and without the gilds and regulated companies. The interests of masters, journeymen and apprentices were not always harmonious. There were conflicts between the various gilds and the great regulated companies did not enjoy perpetual peace. Interlopers were troublesome and outsiders clamorous. Cities grew in population. Commerce expanded. The people demanded the abolition of privilege. In time the demand was granted. The industrial revolution destroyed the mediæval organization of industry and established the system of industrial liberty. Some have called it industrial anarchy, because of its lack of organization, its absence of system. But anarchy is impossible. A new organization has arisen in the place of the old. The nineteenth century has produced trade-unions and trusts, and industrial freedom is limited in a new way. It remains for the twentieth century to bring forth a system of legislation suitable to the new conditions, capable of controlling the new forces.

IV.

EXCLUSIVE TRADING COMPANIES.

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CHAPTER IV.

EXCLUSIVE TRADING COMPANIES.

The discoveries of Columbus, Da Gama and other explorers of their day opened up great and profitable fields for the commerce of the world. The commercial nations of that time, notably Portugal, Holland and England, were not slow to push out along the new lines and with new methods. The privileges of such regulated companies as the Merchant Adventurers did not extend to the new fields for enterprise. The way was therefore open for the organization of joint-stock companies, trading with combined capital and possessing true monopoly privileges.

There were at that time valid reasons to justify the existence of strong companies trading in new and undeveloped fields. The same reasons were held to justify grants of monopoly to these companies. For the successful prosecution of great and hazardous enterprises, capital was required greater than any one merchant would be able or willing to adventure. There were great risks. The navigation of unknown seas was perilous in the extreme but more perilous than uncharted coasts, coral reefs, typhoons, fogs and icebergs, were the pirates that infested the seas and the

savages that lay in wait on shore. Hardly less to be dreaded than savage pirates were the rival traders who were ready to seize the enemies' goods and to sell their persons into slavery.

The risks were great but the profits were also great, if only they could be secured to the adventurers against interlopers and foreigners. In those days trade followed the flag and the flag followed trade. Where the explorer and trader established his factory there he planted the flag of his fatherland and made the beginnings of colonial empire. He considered that he was doing a service to his country and he demanded to be paid for that service. In consideration of exclusive privileges of trade for a longer or shorter time he would gladly adventure his fortune and his life. Without such inducement no man could be expected to take so great a risk.

A typical monopoly was granted by Henry VII to John Cabot and his three sons in the year 1496. Cabot was empowered by royal license to fit out five ships at his own expense for the discovery of lands "which have hitherto been unknown to all Christians." There he was to plant the English flag and to enjoy a monopoly of trade but one fifth of his capital gain was to go to the king. Cabot was able to fit out only one ship and although he discovered the continent of America in 1497 his trading monopoly was never established.

The voyage of Sebastian Cabot in the following year was equally unprofitable.

One of the earliest joint-stock companies was the Muscovy Company, founded in the reign of Edward VI by some London merchants at the instance of Sebastian Cabot for the purpose of discovering a northeast passage to India. The capital was six thousand pounds in twenty-five pound shares. An expedition was undertaken in the year 1553 under Richard Chancellor and Hugh Willoughby. Willoughby perished in Lapland but Chancellor in the following year entered the White Sea and discovered a harbor at the mouth of the Dwina, where Archangel was afterward founded. In 1555 the company received by charter exclusive privileges of trade with Russia by the northern route. They also received special privileges from the Czar of Russia. Through the activity of the explorer Jenkinson the company's trade was extended through Russia to Persia and thereby to the Far East. The company also obtained a monopoly of the whale fishing of Spitzbergen. In the year 1669 the Czar admitted the Dutch to an equal footing with the company. After this it ceased to be a joint-stock company and became a regulated company like the Merchant Adventurers. Henceforth each merchant traded with his own capital under the regulations of the company. The company for many years maintained the English embassy to Russia.

Another important joint-stock company was the Royal African Company, also called the Guinea Company, founded by a royal charter in 1672, the successor of four previous exclusive companies. It was occupied chiefly in procuring gold from Guinea and negro slaves for the British plantations in America. The company had no parliamentary charter and therefore could not, after the Revolution of 1688, exclude interlopers, who took advantage of the open trade to undersell the company. In 1698, therefore, Parliament passed an act declaring the trade open but giving the company the right to levy a duty of ten per cent upon private traders in Africa. The Company for various reasons did not prosper, in spite of aid from the British government and in the year 1750 it was changed from a joint-stock company to a regulated company, the privileges of which any British subject might enjoy upon payment of an admission fine of forty shillings. Even then the company was not a great success, and it finally ceased to exist in the year 1821. Before the American Revolution the colonists complained that the company took advantage of its monopoly to raise the price of negroes. Among the "Groans of the Plantations" are heard the following: "Heretofore we might send to Guiney for negroes when we wanted them, and they stood us about seven Pound a Head. The Account is short and

plain. For they cost about the value of forty shillings a Head in Guiney; and the freight was five pound, for every one that was brought alive and could go over the ship side. But now we are shut out of this Trade, and a Company is put upon us, from whom we must have our negroes, and no other way. A Company of London Merchants have got a Patent, excluding all others, to furnish the Plantations with negroes. And now we buy negroes at the price of an engrossed commodity: the common rate of a good negro on shipboard being twenty pound. And we are forced to scramble for them in so shameful a manner, that one of the great Burdens of our Lives is going to buy negroes. But we must have them; we cannot be without them and the best men in those countries must in their own Persons submit to the Indignity."

Of all the exclusive companies the greatest was the British East India Company, founded in 1599 for the purpose of carrying on trade with the East Indies. The East India trade had long been of great importance and highly profitable. Before the epoch-making voyage of Vasco da Gama in 1498 the commerce of western nations with India was largely in the hands of the Arabs and of the Italian cities, especially Venice. After the discovery of the Cape route to India the monopoly of the Arabs was broken down and the Portuguese

entered upon their inheritance. For a hundred years the trade was exclusively controlled by Portugal and the Indian Ocean was regarded as a Portuguese sea, upon which vessels of other European nations sailed at their peril.

The Portuguese trade with India was not under the control of a single company but all Portuguese subjects were at liberty to engage in it under certain restrictions. The merchants were obliged to transport their goods in the ships of the King and for this service they paid thirty per cent of their value. The government reserved a monopoly of the trade in pepper and also reserved to itself the trade with Japan, China, Malacca, Mozambique, and Ormuz. The chief exports from Portugal to India were woolen goods, weapons, lead, hats, dried fruits, salted fish, wine, oil and books. The chief imports consisted of spices, borax, camphor, sandal-wood, ebony, aloes, amber, pearls, precious stones, porcelain, gold, silk, carpets and cotton-goods. The trade was exceedingly profitable, four hundred per cent being a common rate of profit. The merchants of other European nations were excluded from the direct trade. The Portuguese merchants disdained to carry their wares to foreign markets. Lisbon was made the staple mart for East India wares and English, German, Dutch and French merchants were obliged to buy in Lisbon at Portuguese prices.

Toward the end of the sixteenth century the Portuguese monopoly was invaded by the Dutch, now rising to the position of pre-eminence in foreign commerce so long enjoyed by Spaniards and Portuguese. In the year 1596 Cornelius Houtman doubled the Cape and sailed to Sumatra and Bantam. After that the Dutch continued to trade in the East Indies and it was not long until they had expelled the Portuguese from almost all their possessions and reigned supreme in the Far East with colonies at the Cape of Good Hope, on the Red Sea, on the Persian Gulf, on Ceylon, Sumatra, Java, the Moluccas, Formosa, Malacca and elsewhere. The Dutch East India Company was founded in 1602 and obtained a monopoly of the East Indian trade, especially of the trade of spices. At the time of the Treaty of Westphalia in 1648, Holland had reached the highest point of her maritime supremacy. Next to Spain she was the greatest colonial power in the world. She was supreme in the East Indies, had almost a monopoly of the carrying trade of Europe, possessed great fishing interests and was altogether the greatest commercial nation of that day. Cromwell's Navigation Act of 1651 and the consequent war between Holland and England was a great blow to the commercial supremacy of Holland.

The growth of English commerce in the East Indies is bound up with the history of the British

East India Company. In the year 1599 the Dutch had raised the price of pepper from three shillings to six and eight shillings a pound. This incident seems to have called the attention of English merchants to the extraordinary profits of the East Indian trade. However that may be, a number of London merchants in that year formed what was practically a joint-stock company and in the following year obtained a charter for fifteen years as "The Governor and Company of Merchants of London trading to the East Indies." One hundred and twenty-five shareholders subscribed £70,000, in amounts varying from one hundred to one thousand pounds apiece. At first any merchant might join the company who would subscribe the required amount but after a time the control of the company was kept in the hands of the earlier subscribers, although the capital was increased by new subscriptions at various times.

In May, 1601, the first expedition set out from Torbay, consisting of five ships with cargoes of merchandise and bullion. That the merchants of the company were prepared to fight as well as to trade is indicated in the inventory of the Great Susan, which included "ten sakers with their carriages, fourteen demi-culverings, eight barrels of powder, one barrel of matches, thirty muskets, eighteen swords, twenty-eight short pikes, thirteen long pikes, three hundred and twenty demi-

culvering round shot and two hundred and twenty saker shot." The other ships were similarly provided with weapons of war. A more peaceful equipment was also carried in the shape of presents "for the Princes of the East Indies where trade is to be sought," consisting of "A silver fountaine and basin of 205 oz., 2 Helmets, 2 Plumes of fethers, 2 Looking-glasses of the greatest, 1 standing cup with a cover, 63 oz.," and many others. The result of the first voyage was highly encouraging and between 1603 and 1613 eight other voyages were made. The profits of these voyages, with the exception of that of 1607, varied from one hundred to two hundred per cent upon the capital employed. The company's exclusive rights were granted in 1609. Its limits were vast, extending from the Cape of Good Hope eastward to Cape Horn. The first factory was established at Bantam in Java in 1602 and from time to time factories were established at one point and another. The influence of the company was extended at first by alliances with the native princes and afterward by war and conquest.

Almost from the first the company had to contend with rivals who desired to share in the profits of the new trade without sharing in the responsibilities connected therewith. Rival companies were formed and there were independent traders or interlopers who were willing to run great risks

for the sake of great profits. In the year 1635 the so-called "Courtiers' Association" received from King Charles, who accepted a share in the adventure, a license to trade with India, in spite of the remonstrances of the older company. The two companies carried on a mutually injurious competition for some years but in 1650 they united and monopoly was restored. In 1655 some dissatisfied shareholders of the company obtained a charter from Cromwell as the "Company of Merchant Adventurers" and again the East Indian trade was reduced to a competitive basis. The markets of Europe were glutted with Indian goods and the traders lost money but after two years harmony was restored by a second consolidation.

In 1661 a new charter was granted by Charles II, confirming all the former privileges and granting the company permission to make peace or war "with or against any princes or people not being Christians" and to seize all unlicensed persons and send them to England. Under this charter interlopers were seized and under pretext of piracy or other crimes were tried by the company's tribunals and punished with much severity.

In 1682 another attempt was made to establish a rival company, but it failed to obtain a charter from the government. As a result the East India Company ceased to publish statements showing

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the condition of its business and the rate of profit. The effect of this policy was the opposite of that intended, for people began to entertain an exaggerated opinion of the profits of the trade and to demand still more urgently that it be thrown open to free competition. After the Revolution the independent traders claimed that the company's exclusive privileges had been abolished by the Declaration of Right and proceeded to engage in an unlicensed trade in districts that had been opened through the energy and influence of the company. The success of these individual traders does not appear to have been very great.

In the year 1693 the company obtained a new charter from the King, granting it a monopoly for twenty-one years under certain conditions. The right of the King to grant such a charter was questioned in the House of Commons and it was asserted that the company had spent large sums of money in bribing certain high officials. On investigation it was found that ninety thousand pounds had been thus improperly expended. It was even said that ten thousand pounds had been given to the King. The House passed a resolution declaring "that it is the right of all Englishmen to trade to the East Indies or any part of the world, unless prohibited by act of Parliament."

After this time the interlopers became still more energetic in their competition and in the year 1698

they formed themselves under act of Parliament into a regulated company, called "The General Society Trading to the East Indies." The new company obtained its charter by advancing to the government two million pounds at eight per cent. The old company had offered to lend the government seven hundred thousand pounds at four per cent, but the government preferred the larger and more expensive loan for purposes of war. In consideration of the loan the old company was to be dissolved and the members of the new company were to have the monopoly of the East India trade after 1701. Not to be outdone, the old company subscribed to the funds of the General Company and in 1700 obtained from Parliament authority to trade under the charter of that company. The competition that resulted was injurious to both companies and in 1702 Parliament provided for their union, allowing seven years for the completion of all arrangements. In the year 1709 the two companies were finally amalgamated as a joint-stock company, "The United Company of Merchants of England trading to the East Indies." From both Crown and Parliament the consolidated company obtained exclusive privileges of trade until the year 1726 to all places from the Cape of Good Hope eastward to the Straits of Magellan. In consideration of these benefits the company made a loan to the govern-

ment of three million, one hundred and ninety thousand pounds at three per cent. The time was afterward extended to 1733.

Shortly before the year 1733 the British public demanded that the trade should be made free and that the necessary establishments in India should be maintained at the expense of the government. It was only by making further loans to the government and by paying a fine of two hundred thousand pounds that the company obtained a renewal of its privileges until 1766. In 1744 the company obtained a further renewal until 1780. The monopoly of the company became more and more obnoxious to the public and in 1766 the House of Commons appointed a committee of inquiry with the result that the company was reconstructed by act of Parliament in 1773. By this act the political character of the company was recognized and provision was made for parliamentary control. The trade to India was not thrown open until 1813 and the company was allowed to retain the monopoly of the trade to China until 1833. In 1833 the company finally ceased to be a commercial institution. Its dividends were thereafter paid out of taxes on the people of India and it continued to exist as the agent of the British government for the ruling of India. After the Indian Mutiny of 1857 the powers of the company were taken away and it

continued to exist merely for the purpose of receiving the dividends guaranteed by the British government. In the year 1873 Parliament provided for the payment of the India Stock and for the final extinction of John Company.

As a great commercial monopoly the company had necessarily many enemies. They claimed that the monopoly was an illegal infringement of the rights of Englishmen. They asserted that the trade was injurious to England in that it drained the country of its gold and silver. They claimed that the company charged exorbitant prices. It was also asserted that low prices were charged for some articles, to the injury of the English producers of these commodities. They pointed out the fact that the profits of the company were often very great. They tried to show that the existence of so great a company was a menace to the prosperity of the country, for if the company should fail, like the notorious South Sea Company and the ill-fated Darien Company, great commercial disaster would be the inevitable result. They exposed the corruption of the company's officials and their bad government throughout the vast territories under their control. The outcry against Warren Hastings was not wholly prompted by humanitarian motives.

On the other hand it was held by the company and its friends that its exclusive privileges were

necessary to the development of trade in the East Indies. Private traders could never have opened up an English trade in the face of Dutch and French opposition, not to speak of dangers from pirates and native princes. Private traders could not have obtained concessions from the native princes nor have adequately maintained the prestige of English trade. The great establishment of the company was necessary to the successful prosecution of trade in the Far East and such an establishment private traders could not have maintained. Also it was held that free competition, whenever tried, had proved ruinous to the trade. Finally the company pointed with pride to the extension of British dominion in the Far East and rightly claimed to have founded an empire.

For a long time the balance of argument was on the side of the defenders of the company, but as time went on the growth of trade and the establishment of peace rendered its existence no longer necessary.

As for the foreign rivals of the British East India Company, they were to a great extent driven from the field. As the Dutch had supplanted the Portuguese, so they in time were supplanted by the British. During the wars of the French Revolution practically all the Dutch colonies from the Cape to Java were taken by the British. France at one time threatened to become the paramount

power, but the victories of Clive put an end to her dream of empire in India, as the victory of Wolfe at Quebec shattered her power on the American continent.

Another interesting company is the Hudson's Bay Company, founded in 1670 by a royal charter granted to Prince Rupert and seventeen other noblemen and gentlemen under the title of "The Governor and Company of Adventurers of England trading into Hudson's Bay." This charter generously secured to the company "the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds in whatever latitude they shall be, that lie within the entrance of the straits commonly called Hudson's Straits, together with all the lands and territory upon the countries, coasts and confines of the seas, bays, &c., aforesaid, that are not actually possessed or granted to any of our subjects or possessed by the subjects of any other Christian prince or state." The grant also included "the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes and seas into which they shall find entrance or passage by water or land out of the territories, limits or places aforesaid."

Throughout this vast region, extending in the end from the Atlantic to the Pacific and from the boundary of the United States to the Arctic Ocean, the Hudson's Bay Company possessed for nearly

two hundred years a practical monopoly of the fur trade, the lordship of the land and the powers almost of a sovereign state. Persons intruding were to forfeit merchandise and ship, one-half to the Crown and one-half to the Company.

Notwithstanding its opportunities, the company did not for a long time prosecute the trade with any great vigor. In the year 1749 it had only four forts, occupied by one hundred and twenty men. The furs taken to England every year amounted in value to only twenty-eight thousand pounds, and the company was in danger of losing its charter for "non-user." The annual profits at this time amounted to about eight thousand pounds. The company had suffered severely from attacks by the French from Canada, who claimed its territory as part of New France.

After 1763 the company was stirred into greater activity by the encroachment of free traders from Canada. In 1783 these traders united to form the North West Fur Company of Montreal, which became a most formidable competitor of the Hudson's Bay Company. For a number of years competition was extremely fierce, to the common ruin of fur-trade, Indians and white men. The supply of furs threatened to be exhausted, because of indiscriminate slaughter, even in the breeding season, of both male and female animals. The Indians were demoral-

ized by fire-water and the white men by savage competition, which at times broke out into open war. In 1821 the rival companies amalgamated, obtaining a monopoly of trade for twenty-one years throughout a great part of the territory granted to the older company. In 1838 the company obtained a new license for twenty-one years. The license was not renewed in 1859 and since that time the trade has been free to all but the company's fine organization has enabled it to maintain its predominant position in the fur trade of northern Canada. In 1869 the original possessions of the company were transferred to the British government and in 1870 became part of the Dominion of Canada. In return the company received three hundred thousand pounds, retaining as property one-twentieth of the original grant, including lands of considerable value, and fifty thousand acres in the neigborhood of the trading posts.

It is maintained by the friends of the Hudson's Bay Company that it has preserved the fur-bearing animals, cared for the Indians and opened the great North West to settlers. They assert that the fur trade ought not to be open to competition, unless it be intended to destroy it utterly. There is much to be said for this view and it is well illustrated by the case of the Alaskan Seal Fishery.

The enemies of the company have stated that the Indians have received ridiculously low prices for their furs and have been charged absurdly high prices for what they have had to buy. They say that the Indians have not been greatly benefited by their association with the company's servants and that the company has discouraged settlement and the development of mining resources in the North West.

During the seventeenth and eighteenth centuries the colonial policy of the leading European nations favored the establishment of exclusive companies, organized primarily for trade and secondarily for purposes of colonization. Among the more celebrated of these companies, besides those already mentioned, were the Brazil Company of Lisbon; the Dutch East India Company; the Dutch West India Company; the Company of the Hundred Associates, trading in New France; the French West India Company; the French East India Company; the Louisiana Company, established by John Law; the Virginia Companies of London and Plymouth, devoting especial attention to colonization; the notorious South Sea Company; the short-lived Darien Company. Such companies as these, with the possible exception of the Virginia Companies, were far more concerned for the development of a profitable trade than for the settlement of the

regions under their control. Their failure in this regard is now clearly perceived. Their success in the opening up of new fields for commerce was often considerable and later traders and settlers enjoyed the fruits of their labors.

V.

PATENTS AND COPYRIGHTS.

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CHAPTER V.

PATENTS AND COPYRIGHTS.

Letters patent or open letters have been granted by English sovereigns from very early times. It was considered part of the royal prerogative to issue charters or letters patent sealed with the great seal and addressed to the King's subjects at large and securing to the favored person grants of land, titles of nobility, liberties, franchises, or anything else that could be granted. In early times towns received charters, as did also merchant gilds, craft gilds, regulated companies, joint-stock companies. It was also not uncommon for private individuals to be favored by the King with special privileges and immunities secured by letters patent. Sometimes they were granted to royal favorites, sometimes to persons who paid money into the King's treasury, receiving therefor valuable franchises, through which they might recoup themselves, such as the privilege of collecting the taxes or the exclusive right to engage in certain manufactures or trades.

Farming of the revenue was more common on the Continent than in England but the practice of granting monopolies in restraint of trade flourished in England, especially under the Tudor

and Stuart sovereigns. Many such monopolies were granted by Henry VIII and many more by Queen Elizabeth. The manufacture and sale of many articles of common use came to be monopolized by a few persons, while the people suffered from enhanced prices. Toward the end of the reign of Elizabeth the existence of monopolies became a great public grievance. The monopoly of salt was said to have raised the price of that common necessary from six pence to fourteen or fifteen shillings a bushel. Sir Edward Darcy's patent for sealing and searching leather was equivalent to a tax of thirty-three per cent on the value of the leather examined. The monopoly of saltpetre was especially obnoxious, for the patentees had not only the exclusive right to manufacture saltpetre but also the right of entering every house in search of it, to the great annoyance of householders, who were often obliged to pay a sort of blackmail to secure relief from the nuisance.

At last the grievances became so great that the question of monopolies was taken up in Parliament in the year 1601 and vigorous speeches were made denouncing the monopolists and the system that permitted their existence. A list was read of the chief commodities manufactured or sold under patents, including "Currants, salt, iron, powder, cards, calf-skins, fells, pouldavies, ox-shin-bones,

train-oil, lists of cloth, potashes, aniseeds, vinegar, sea-coals, steel, aqua-vitæ, brushes, pots, bottles, saltpetre, lead, accidences, oil, calamine-stone, oil of blubber, glasses, paper, starch, tin, sulphur, new drapery, pilchards, transportation of iron ordnance, of beer, of horn, of leather; importation of Spanish wool, of Irish yarn." When this list was read a member exclaimed, "Is not bread among the number? Yes. I assure you, if affairs go on at this rate, we shall have bread reduced to a monopoly before next Parliament." Another member spoke of "Monstrous and unconscionable substitutes to the monopolitans of starch, tin, fish, cloth, oil, vinegar, salt and I know not what, nay what not? The principallist commodities both of my town and country are engrossed into the hands of these blood-suckers of the commonwealth." Another member defined a monopoly as "the restraint of anything public in a city to a private use," and styled the monopolist "the whirlpool of the prince's profit."

There was much indignation and excitement in the Commons and a bill was introduced to abolish all the monopolies. The bill met with considerable opposition from the court party, who maintained that the matter touched the royal prerogative and was therefore a subject for petition and not for legislation. The monopolies were also defended as in many cases not injurious to the people at

large. The monopoly of gold and silver thread was defended on the ground that it prevented the excessive use of such luxuries as gold lace and silver lace and at the same time prevented the melting of gold and silver coin. The monopoly of starch was said to prevent the waste of grain and thereby to secure low prices of bread. Sir Walter Raleigh blushed at the mention of his monopoly of playing cards but it was claimed to be in the interests of good morals as was also Raleigh's patent for taverns. Raleigh also defended his patent for tin on the ground that he had given steady employment to the miners irrespective of variations in the price of tin. The monopoly of saltpetre was considered necessary in order to maintain an adequate supply of gunpowder for the Queen's army and navy.

These and other feeble excuses did not appease the anger of the Commons. Their petition to the Queen had been disregarded and the bill to abolish monopolies was about to be passed when the Queen decided to yield. She sent for the Speaker and desired him to inform the Commons that she would immediately abolish the most oppressive of the monopolies. The Commons received the Queen's gracious message with glowing expressions of gratitude and they showed their gratitude in a more practical manner by an unusually large grant of money. Thereafter the patents continued to exist, very much as before.

The true principle upon which patents could lawfully be granted was laid down in the year 1602 by Sir Edward Coke in the case of Darcy vs. Allein, in the following words, "That by the ancient common law the King could grant to an inventor or to the importer of an invention from abroad, a temporary monopoly of his invention, but that grants in restraint of trade were illegal."

The first Parliament of James I appointed a committee of grievances with Coke as chairman to petition for the abolition of monopolies. James therefore at that time annulled the patents granted by his predecessors, with the exception of the charters of the exclusive companies. Even thus illegal monopolies were not entirely suppressed but in the year 1624 was passed the Statute of Monopolies, which forms the historical basis of the present law of patents in England and in the United States. It was entitled "An Act concerning Monopolies and Dispensations with Penal Laws and Forfeiture thereof." By this law "All monopolies and all commissions, grants, licenses, charters, and letters patent heretofore made and granted, or hereafter to be made and granted to any person or persons, bodies politic or corporate whatsoever, of or for the sole buying, selling, making, working or using of anything within this realm or the dominion of Wales: or of any other monopolies, are altogether contrary to the laws

of this realm and so are and shall be utterly void and of none effect and in no wise to be put into use or execution." An exception was made in the case of patents for new industries or inventions, which might be granted for twenty-one years, and patents for new processes for fourteen years. Also the act did not touch the exclusive companies engaged in foreign trade.

Charles I took advantage of the exception in favor of new inventions and sold patents in a more than questionable manner. Patents were multiplied. The King obtained an increase in revenue. It was estimated that he would obtain twenty thousand pounds sterling from soap alone. Once more the Commons protested in a most vigorous manner. The speech of Colepepper in the Long Parliament did not mince matters. He said, "I have but one grievance more to offer unto you, but this one compriseth many; it is a nest of wasps or a swarm of vermin, which have overcrept the land. I mean the monopolisers and pollers of the people. These, like the frogs of Egypt, have got possession of our dwellings, and we have scarce a room free from them; they sip in our cup, they dip in our dish, they sit by our fire; we find them in the dye-vat, wash-bowl and powdering-tub; they share with the butler in his box, they have marked and sealed us from head to foot, Mr. Speaker, they will not bate us a pin; we may not buy our

own clothes without their brokage. These are the leeches that have sucked the commonwealth so hard, that it is almost become hectical."

After this time we hear little of illegal monopolies. After the Revolution they ceased to exist. The present law of patents in England and the United States and other civilized countries is based upon the principle of the Statute of Monopolies which excepted from prohibition patents granting the privilege of "the sole working or making of any manner of new manufactures to the true and first inventor of such manufacture, which others at the time of making such letters patent and grants should not use, so they be not contrary to law, nor mischievous to the state by raising prices of commodities at home or hurt of trade or generally inconvenient."

In Great Britain the power of granting patents rests with the King, as part of the royal prerogative. Patents are granted for fourteen years from the date of issue. Under certain circumstances a patent may be extended or renewed for seven or fourteen years more. Patent rights can be enforced only by a suit at law. The validity of a patent is held to depend upon three main conditions. First, "the invention must possess a certain amount of utility; must display some degree of novelty; and must have been obtained by the exercise of some measure of ingenuity." Second,

"the patentee must be the true and first inventor: that is, he must not have obtained the invention from another person, unless imported from abroad, nor from a printed book, nor from a patent specification published in this country or introduced from abroad." Third, "the specification must be accurate, intelligible and sufficient; it must point out distinctly what the patentee claims as his own and must not claim anything that is not his own."

The patent law of the United States is very liberal in its provisions. The Patent Office is organized under the Department of the Interior. At its head is the Commissioner of Patents and under him are more than a hundred skilled examiners, besides a large force of clerks and other assistants. "Any person, native or foreign, who has invented or discovered any new and useful art, machine, manufacture or composition of matter or any new and useful improvement thereof, not known or used in this country, and not patented or described in any publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application unless the same is proved to have been abandoned, may upon payment of the fees required by law and other due proceedings had, obtain a patent therefor."

The person applying for a patent must make

an application to the Commissioner of Patents, accompanied by a fee of fifteen dollars and a specification explaining the nature of the invention and the best mode of using it. Drawings are required when possible.

After the application has been made and the prescribed oath taken, the application is referred to the examiners, who make a thorough investigation to determine whether the invention be patentable or not. After a favorable report of the examiners the patent is granted upon payment of a second fee of twenty dollars. The patent grants to the inventor the sole right to manufacture and sell the invention for a period of seventeen years. No further fees are required, except for special services, and no conditions are imposed compelling the inventor to use his invention or to put it upon the market. Improvements in the original invention must be protected by new patents. If an invention has been previously patented abroad, the American patent expires at the same time as the foreign patent.

A patent can be assigned or bequeathed like any other property. Trade-marks and labels may be registered at the Patent Office and exclusive right to use thereby acquired.

On account of the searching examination to which the application has been submitted, it is extremely difficult to have a patent declared in-

valid by a suit at law, there being a presumption of validity in favor of the patentee. In this respect the patent law of the United States is superior to that of England. The patent law of the United States is generally considered to have greatly stimulated invention and discovery. In the year 1898 no less than 20,404 original patents and 1,803 patents for designs were issued by the Patent Office. In that year only sixty patents were reissued. To what extent the numerous inventions have been due to the excellence of the patent law, rather than to the natural inventiveness of Americans, it would be hard to determine.

On March 20, 1883, a Convention was signed by representatives of various governments for the purpose of establishing "A Union for the Protection of Industrial Property." Article II of the Convention provided that "the subjects or citizens of each state enjoy in all the other states the same advantages as regards patents of every kind that their respective laws grant to their own subjects or citizens." The Union at present includes the United States, Great Britain, France, Italy, Spain, Portugal, Sweden, Switzerland and other countries and its central office is in Switzerland.

Patents are commonly considered to be among the most justifiable of monopolies. While there

were many unjustifiable monopolies in the reign of Queen Elizabeth and at other times, there were also many that were granted on sound principles or at least for plausible reasons. According to the common law as quoted by Coke, an inventor or the importer of an invention from abroad might justly be granted a temporary monopoly in order to encourage the establishment of a new industry. Thus in the year 1565 a patent for the manufacture of brimstone was granted to Wade and Herlle for thirty years. Similarly a patent for a new process of manufacturing salt was granted to the Earl of Pembroke and others for a term of twenty years. It is to be assumed that these "infant industries" became afterward self-supporting. The system of patents was part of the general system of fostering industry so prevalent in the Middle Ages, so characteristic of the mercantile system and so strongly upheld by modern advocates of protective tariffs. It is to be classed with the charters and liberties of gilds, with privileges granted to regulated and joint-stock companies, with bounties and with protective tariffs.

At the present time the English theory of patents holds that the monopoly is granted to the patentee as a reward for making his invention known to the public. This is a justification on legal rather than on economic grounds. The American theory that the patent law exists as an

encouragement to invention is the best justification of the system. To say with Professor Hadley that the real justification of the system lies in the fact that "it makes it safe for a capitalist to develop a new process" is to assert the necessity of a system of bounties and tariffs in aid of all new undertakings. Are we to suppose that the introduction of the cotton gin would have been more rapid under a rigid patent? Would the telephone have been more slowly introduced by competing companies than by one great company protected by patents? Would the bicycle have been improved less rapidly under a system of free competition? Has the American packing industry been developed by means of patents? Has the growth of the modern department-store been assisted by exclusive privileges? Is it not true that great inducements to the introduction of improved methods in business are offered by the natural profits of early enterprise, without the added stimulus of monopoly profits? While it may be true that in certain cases capitalists require encouragement, it is probably true that unless patents are justifiable on the ground of encouragement to inventors their justification is very slight indeed. It can hardly be doubted that capitalists are less in need of encouragement than the majority of inventors, who, without some pecuniary incentive, would hardly waste their time in producing or perfecting new inventions.

The objections to the present system of patents are chiefly three. In the first place, it is held that while the prospect of monopoly profits does act as an incentive to many inventors, the great majority of true inventors have been impelled by their natural genius and love for inventing and not by any hope of material reward. Inventions and discoveries would, it is claimed, be made without any system of patents and therefore such a system is useless and unnecessary.

Secondly, the fact is pointed out that only in rare cases do inventors become rich as the result of the sale of their inventions. In the vast majority of cases they have lived and died in moderate circumstances, if not in actual poverty. It is one thing to invent; it is another to put the invention upon the market. In the former case inventive genius is sufficient; in the latter the aid of capital and talent in business is necessary. Inventors are not often capitalists as well. It is easy to obtain a patent; it is not so easy to procure a capitalist. The capitalist will not lend his money for nothing. He will agree to manufacture the invention and to put it on the market, provided that he be given the lion's share of the profits. Under the power of a trust the inventor's position is even worse. One of the reasons given for the formation of a recent consolidation was that it would give to the combined capitalists a great

advantage in dealing with inventors. Instead of paying them "exorbitant" royalties they would thereafter buy an invention at a certain price and enjoy the full benefit of future profits.

Thirdly, it is held that patents often contribute to the growth and power of monopolies that continue to exist even after the patents have expired. The patents are compared to the scaffolding of a building that may be removed when the building is finished, without damage to its stability. The great telephone companies and the great telegraph companies are said to be monopolies of this description.

It is not difficult to show that the present system of granting patents is by no means perfect but it is not easy to suggest a better system. The present patent law is the growth of centuries and is fairly satisfactory in its workings. It may be better to introduce certain reforms in the present system rather than to endeavor to establish a new and untried system. The chief reforms suggested by commissioners of patents are thus mentioned by Professor Ely: "One is for the government to reserve the right to purchase any patent at an appraised valuation. So, if the Bell Telephone people, for example, have a patent which is objectionable, the right to purchase it at a price fixed by a commission and then to throw it open to the public would be reserved. A second remedy is to grant patents only on condition that the use

of the patent shall be free to anyone on payment to its owner of a reasonable royalty, the amount of which could be determined by a board in accordance with carefully elaborated principles. Another is to put a tax, increasing each year, on the use of patents, and to let those lapse on which the tax is not paid. Another is to provide forfeiture for the non-use of patents."

Closely allied to the patent law is the law of copyright. Copyright is "the exclusive right to multiply for sale copies of works of literature or art." Copyright is of comparatively recent origin. It was not known in ancient times. When Homer sang there was no law to prevent other singers from learning and repeating his songs, whether for money or glory. When literature came to be written, it was not unlawful to copy an author's manuscript, provided the scribe could get a manuscript to copy. What profit there might be would in general go to the scribe rather than to the author.

It was not until the invention of printing that the reproduction of manuscripts became a very profitable industry. It was then that authors began to claim the exclusive privilege of reproducing their own works. Gutenberg published his first printed book at Maintz in the year 1451. According to Brander Matthews, the first recorded instance of copyright was in the year 1469 when the Senate of Venice gave to John of Spira the

exclusive right for five years to print the epistles of Cicero and Pliny. This was a publisher's copyright. The first instance of author's copyright was the privilege granted in the year 1491 by Venice to Peter of Ravenna to print and sell his "Phoenix." Similar privileges were early granted in Germany, France and England. In the year 1518 Richard Pynson, printer to the King of England, issued the first book *cum privilegio* and in 1530 a license was granted to John Palsgrave to print and sell his book for seven years, in consideration of its value and the time and labor spent upon it. A royal edict in France in the year 1566 forbade "any person whatsoever printing or causing to be printed any book or treatise without leave or permission of the King, and letters of privilege."

In England the Stationers' Company was chartered by Philip and Mary to prevent the propagation of the Protestant Reformation. In 1637 a "Decree of the Star Chamber concerning Printing" declared "that no person or persons whatsoever shall at any time print or cause to be printed any book or pamphlet whatsoever unless the same book or pamphlet shall first be lawfully licensed." The early law of copyright was thus closely connected with the censorship of the press and the encouragement of authors and printers was often a matter of secondary consideration.

Before the time of Queen Anne the exclusive right of an author to publish and sell his books depended upon the common law of the realm and on this ground copyright has been held to have been perpetual before the enactment of special legislation. The first English Copyright law was passed in the reign of Queen Anne, in the year 1710. The preamble to this act states that printers, booksellers and other persons were frequently in the habit of printing, reprinting and publishing " books and other writings without the consent of the author or proprietors of such books and writings, to their very great detriment and too often to the ruin of them and their families." The act goes on to say: " For preventing therefore such practices in the future and for the encouragement of learned men to compose and write useful books, it is enacted that the author of any book or books already printed * * * shall have the sole right and liberty of printing such book or books for the term of one and twenty years." The author of a book thereafter to be printed was to have copyright for fourteen years and if alive at the end of that time he could have the privilege extended for fourteen years more. Penalties were provided for infringement of copyright, provided that the books were duly registered at Stationers' Hall. Provision was made for the fixing of reasonable prices by a commis-

sion composed of the Archbishop of Canterbury and other royal officers. Nine copies of each book were to be provided for the Royal Library, the Universities of Oxford and Cambridge, the four Scotch Universities, Sion College and the Faculty of Advocates of Edinburgh. Although the copyright law of England has been amended many times, the present law is based upon the Statute of Anne. The term of copyright now extends to the period of the lifetime of the author and seven years thereafter or to a period of forty-two years.

The copyright law of the United States is also based upon the Statute of Anne. In the year 1783, on a motion of Madison, Congress recommended the states to pass acts securing copyright for fourteen years and such acts were passed by several states. Article I of the federal constitution provides as follows: "The Congress shall have power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." In the year 1790 the first federal copyright law was passed. It followed the precedent of the English act of 1710 in fixing the term of copyright at fourteen years, with renewal for fourteen years more if the author were living at the expiration of the first term.

Changes in the copyright law have been made from time to time. In 1870 a general act was passed to take the place of all previous acts. According to the law of copyright as in force July 1, 1895, the administration of the law is in the hands of the Librarian of Congress and the supervisors of the Joint Committee of Congress on the Library.

"The author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, or negative thereof, or of a painting, drawing, chromo, statuary, and of models or designs intended to be perfected as works of fine arts, and the executors, administrators or assigns of any such persons, shall upon complying with the provisions of this chapter have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing and vending the same and in the case of a dramatic composition of publicly performing the same or causing it to be publicly performed or represented by others." In the case of a book, photograph, chromo, or lithograph, two copies must be deposited with the Librarian of Congress and they must have been "printed from type, set within the limits of the United States or from plates made therefrom or from negatives or drawings on stone made within the limits of the United States." During the exist-

ence of the copyright the importation of such books, etc., or the plates, negatives, or drawings for the same, is prohibited, except in certain cases. The fees are small, being fifty cents for recording the title, or one dollar for a person not a citizen of the United States, together with other small fees for special services. Penalties are established by law for infringement of copyright. In the case of a book, every copy illegally printed or exposed for sale may be forfeited to the proprietor of the copyright and damages may be awarded upon civil action in any court of competent jurisdiction. The term of copyright is twenty-eight years, with renewal for fourteen years more, or in all forty-two years.

Before the year 1891 aliens could not obtain copyright in the United States. The result of this policy was very injurious to American authors. The works of recent British writers were published at very low prices in the United States and were largely read by the public, to the exclusion of the works of native authors, which were protected by copyright and were sold at higher prices. British writers received no benefit beyond a certain addition to their reputation. The only persons benefited were the publishers of "pirated" editions of British works or of translations of French, German and other foreign works. The public, it is true, enjoyed the bene-

fit of cheap books, especially of cheap fiction, but the growth of American literature was discouraged and the highest interests of the public sacrificed for a temporary and questionable advantage. As Sir Henry Maine said: "Their neglect to exercise their power for the advantage of foreign writers has condemned the whole American community to a literary servitude unparalleled in the history of thought."

The struggle for international copyright began at an early period. In the year 1837 Henry Clay presented to the United States Senate a petition of British authors asking for American copyright. The petition was referred to a select committee consisting of Clay, Webster, Buchanan and Ewing. The committee reported in favor of granting the petition and presented a bill granting to subjects or residents of the United Kingdom or of France the privileges in regard to copyright enjoyed by citizens or residents of the United States in those countries, provided that their works should be printed and published in the United States simultaneously with their issue in the foreign country. Between the years 1837 and 1840 the bill was presented in the Senate no less than five times but invariably failed to pass. From that time until the year 1891 frequent attempts were made to secure a measure of international copyright and many bills were presented

and rejected. The movement was supported by some publishing houses of high standing but opposed by those interested in the publication of cheap editions of foreign works and by those publishers who feared injury to their interests through the publication of English books by English firms. They claimed that books sold in the United States ought to be published by American houses. The readers of books were interested in securing cheap books and were inclined to oppose the claims of the American publishers. Finally, after great efforts and much agitation, the Platt-Simonds copyright act was passed, was approved on March 3, 1891, and took effect on July 1 of that year.

This act was a compromise measure. It granted to the citizens of foreign states, granting similar privileges to citizens of the United States, the privileges of copyright in the United States, but it required, as above stated, that their works should be printed in the United States. Foreign authors are also required to publish the American edition of their books at the same time with the foreign edition. This is a great inconvenience, especially to German and French authors. The act has been of considerable advantage to British authors of high rank. American writers and publishers have also been benefited. The prices of recent British fiction

have considerably increased. The prices of standard books have fallen rather than otherwise, because of the extended market. Perhaps sufficient time has not elapsed for any marked improvement in the quantity or quality of American literature, as the result of diminished competition, yet a number of American novels have been produced during the past decade that can stand comparison with the best of recent British fiction. They have been widely read and have proved highly profitable to authors and publishers.

The privileges of American copyright under the act of 1891 are granted to the United Kingdom, France, Germany, Belgium, Italy, Denmark, Portugal, Spain and Mexico.

In the year 1887 representatives of the United Kingdom, France, Germany, Spain, Holland, Italy, Switzerland, Hayti, Liberia and Tunis entered into a convention in order "to protect effectively, and in as uniform a manner as possible, the rights of authors over their literary and artistic works." The articles of union were signed at Berne on September 5, 1887. Article II provides that "authors of any of the countries of the Union or their lawful representatives shall enjoy in the other countries for their works, whether published in one of these countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives." Pro-

visions are made for the admission of other countries to the privileges of the convention and for the establishment of an international office in Switzerland, called the "Office of the International Union for the Protection of Literary and Artistic Works." The United States is not a member of the International Union because of the law requiring that copyrighted works be published in the United States. The Montevideo Convention of 1889 established a similar union between Argentina, Bolivia, Brazil, Chili, Paraguay, Peru and Uruguay.

The periods for which copyright is granted differ in different countries. In Mexico copyright is perpetual. In Spain it continues during the author's life and eighty years thereafter. In Russia and France the period includes the author's life and fifty years after; in Germany, Austria and Switzerland the author's life and thirty years after. Denmark and Holland grant copyright for fifty years. In England and in the United States the period is shorter than in almost any other country. Twenty-six countries permit foreigners to obtain copyright on the same terms as their own citizens.

Copyrights are intended primarily for the encouragement of authors and not for the protection of publishers. The fact that publishers so

readily issue books not protected by copyright is a proof of that fact. Still, the publication as well as the writing of books is no doubt encouraged by copyright, and the interests of authors, publishers and public are to a large extent in harmony. A copyright, like a patent, is a grant of monopoly. The owner of a copyright has the exclusive right to manufacture and sell the book or other article copyrighted, just as a patentee has the exclusive right to manufacture and sell "copies" of his invention. In each case the supply of the article is in control of a single person and there can be no lawful competition. If the book or invention be of no use to the community, the monopoly will be a profitless one, lacking the essential element of effective monopoly, the power of controlling market price. If, on the other hand, there be a considerable demand for the book or invention, the price will be fixed by the owner of copyright or patent, not in accordance with the principle of cost of production, but according to the principle of greatest net returns. The price will be ten cents or fifty cents or two dollars, according to the amount of net returns. Yet even here competition is not entirely excluded, for if the price be set too high the public will be content with inferior books or inventions or will not use them at all. Under the most favorable cir-

cumstances the monopoly gives but a limited degree of price control and may therefore in a sense be called a partial monopoly.

The monopoly is also temporary. It has been claimed that under the common law the author and his heirs have a perpetual copyright, but it is probable that this right was taken away by the Statute of 1710 and by later British and American Statutes. The argument in favor of perpetual copyright is now based upon the contention that an intellectual product is as much the property of the author as a piece of land, a horse, a fish or any other material property which he has created or improved. It is not difficult to show that there is a difference between the right to a piece of property and the right to multiply copies of a book, yet the hardship resulting from perpetual copyright would be insignificant compared with the evils of the unequal distribution of wealth, resulting from the recognized sanctity of material property. Under perpetual copyright the descendants or heirs of Shakespeare would receive an immense income from royalties and might compare in wealth with the great landowners, the railway magnates and the manufacturers of the present day. The literary heirs of Bacon and Spenser would not enjoy an excessive income, while the heirs of Sidney and Raleigh could hardly live in affluence on their royalties alone.

The justification of patents and copyrights rests upon two principles. The one declares that those who serve the public should receive an adequate reward. The other asserts that any system is justifiable which best secures the public welfare. The justification of private property rests upon the same grounds.

VI.

MUNICIPAL MONOPOLIES.

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CHAPTER VI.

MUNICIPAL MONOPOLIES.

The enormous growth of cities during the present century is directly traceable to the Industrial Revolution, and has taken place in every country that has adopted modern methods of production. It was first observed in England, later on the continent of Europe and still later in America. In the year 1790 only 3.35 per cent. of the population of the United States lived in cities of 8,000 inhabitants and over. In the year 1850, the percentage was 12.49, and in the year 1890, the urban population of the United States amounted to 29.20 per cent. of the total population. At the present time it may safely be said that one-third of the population of the United States live in cities of 8,000 inhabitants and over. In the year 1891, 61 per cent. of the population of England and Wales lived in towns with a population of 10,000 and over, while 70 per cent. of the population was classed as urban, living in towns of 3,000 inhabitants and over. In the year 1891, 47 per cent. of the population of the German Empire and in the year 1890, 37 per cent. of the population of France, lived in towns of 2,000 inhabitants and over.

While the cities of recent times have greatly increased in population, they have been vastly improved in many ways, such as were hardly dreamed of in ancient and mediæval times. We have systems of sewerage and paving and distribution of water more perfect than the world has ever seen before. The systems of lighting and transportation are the product of the nineteenth century, while the miracle of the telephone has come to pass in the lifetime of men not thirty years old. Other improvements have been made in the establishment of public parks, markets, museums, hospitals, heating plants, pneumatic tubes, all of which combine to render the modern city a veritable paradise compared with the reeking discomfort of "modern" Pekin, of mediæval London or of ancient Nineveh. Because of the great urban populations and because of the improvements in city life, the problems of municipal government have attained an importance which they never had before.

Municipal monopolies are the product of municipal improvements. In nearly all of these there is a general tendency toward unification of system and management and therefore toward monopoly. A double system of sewer pipes throughout a city would be an intolerable nuisance. Before the introduction of the underground system there might be as many scavengers as could

find employment, although even then there were advantages in a unified system. When the improved system was introduced, monopoly was established. In general and for obvious reasons, it was a monopoly owned and managed by the city government.

A duplicate system of water-works would be only less absurd and wasteful than a double system of sewers. When one system of pipes is laid in the streets and when connections are made with all the buildings, no other system is necessary. The creation of a second system would involve the tearing up of the streets and a great waste of capital, such as could be justified only under the most extraordinary circumstances. The water supply of a city is therefore by nature under monopoly control. If there is one system throughout the city there is one monopoly. If there is one system in one part of the city and another system in another part, there are two monopolies. The systems do not compete with one another, for they supply different parts of the city.

Water-works were at first largely owned and managed by private companies but gradually they came to be more and more under public ownership and control. In the year 1801, but one city in the United States owned its own water-works, while in fifteen cities the water-works were owned by private companies. In other words 6.3 per

cent. of the water-works were publicly owned and 93.7 per cent. were owned by private companies. In 1875, 53.8 per cent. were public and 46.2 per cent. were private, while in 1896, 53.2 per cent. were public and 46.8 per cent. were private.

Before the introduction of illuminating gas at the beginning of the nineteenth century the streets of great cities were almost as dark at night as those of country villages. A few oil lamps served to render darkness visible. The use of gas produced a great improvement and the use of electricity marked another tremendous step in advance. The streets of many cities are now as bright by night as by day. At first private enterprise built and managed gas-works. After a time the municipalities began to undertake this work for themselves, especially in England and on the continent of Europe. Forty-one out of fifty-four large German towns and thirty-two out of sixty-five English towns now own their own gas plants. In the United States only thirteen cities operate their own gas-works. The city of Philadelphia operated its own gas-works for fifty-six years, but in the year 1897 the gas-works were leased to a private company for a period of thirty years on terms little better than were enjoyed under public ownership. In the United States there are now about four hundred publicly-owned plants for the production of electric light.

Street railways, whether run by horsepower, by cable or by electricity, have generally been owned and managed by private companies. At present some nineteen towns in Great Britain operate their own street railways and among these Glasgow and Sheffield have been especially successful. In the United States street railways are all owned by private companies.

Telephone lines have been under private management because of the existence of patents, but since the expiration of some of the patents the field has been open for the establishment of municipal ownership. The city of Amsterdam has lately entered this field with considerable success.

In all these cases there is a constant tendency toward the creation of greater and more powerful monopolies. Under the system of private ownership the people have often complained of high prices and as often have demanded that competition be introduced for the purpose of breaking down the monopoly. Competition has been introduced in many cases but in general the result, whether in the case of gas-lighting, electric-lighting, street railways or telephones, has been disappointing to the public and injurious to the investor. Sooner or later agreement or consolidation has put an end to wars of rates, with nobody the better for a foolish waste of capital. It is now pretty well recognized that competition can-

not remedy the abuses connected with the private ownership of municipal monopolies.

Under the system of private ownership without public control prices are regulated by the private company, which is therefore the monopolist. As in the case of all monopolies, prices are regulated according to the principle of the greatest net returns, as modified by minor considerations, such as philanthropy and a far-sighted prudential policy. The company will in general avoid oppressing the public too much, in fear of competitors or in fear that the people may demand legislation unfavorable to the monopolist. Just as a ball thrown upward and outward tends to move in a parabolic curve but actually does not describe a parabola, because of the shape of the ball and the resistance of the air, so the price of gas tends to move in the curve of greatest net returns but actually varies considerably from the theoretical course and it is impossible to calculate accurately the course it will pursue. The power of competition is not entirely excluded in this case, for if gas be too high people will use electricity or oil or candles. The maximum price of gas is therefore fixed by competition. Below that point the price is fixed by the will of the monopolist. On the other hand, the price of water could be very high, for water could be supplied by water-carriers only at great cost and much inconvenience. A private

water company would not dare to exert its full power in this respect, for its power would then surely be of brief duration.

The monopoly power of street-railway companies is modified by the use of horses and bicycles and by the possibility of walking, yet the fare may be a monopoly rate, provided that it is not regulated throughout by the influence of competitors. The fact that a street-railway company, if not controlled by the city government, could charge some passengers ten cents, others twenty cents and others fifty cents, for the same service, shows that it has the powers of monopoly, for where there is free competition any given article or service has a market price equal to that of any other article or service of the same kind, in the same market, at the same time and under the same conditions. Where there are or can be two or more prices for the same article in the same market there is more or less of monopoly involved.

When water-works, gas-works, tramways and telephones were first introduced, the companies were in general greatly encouraged by the public and by the municipal authorities. The use of the streets was often freely granted to them and few if any conditions and restrictions were imposed upon them. Extreme confidence was placed in the enterprise, integrity and philanthropy of capitalists who promised so much. Bonuses were

given to encourage them in their good work and their praises were sung by high and low. That time has passed away. Now the people and the authorities realize the value of franchises and are disposed to sell them at their full value and even to demand more than their value and to hedge private companies about with all sorts of conditions and restrictions. Prices are often, if not usually, fixed by the municipal authorities. When this is done it is right to say that either the municipal government is the monopolist and the company the agent, or that the monopoly power is divided between the government and the company. The person who fixes the price is the real monopolist. The seller of postage stamps is not a monopolist but the agent of the government, which is the real monopolist. In the same way, when the tramway fare is fixed at five cents by contract with the city, part at least of the power of monopoly is taken away from the tramway company. There may be, however, opportunities for the company to earn monopoly profits by reducing the efficiency of the service or the wages of employees or the prices paid for supplies. When all these opportunities are taken away by the stringency of the contract, the company may be the manager of a monopoly, but the city government is the monopolist.

No doubt the management and control of mu-

nicipal monopolies ought not to be left entirely in the hands of a private company. The company ought to pay for the franchise and the people should be protected against extortionate rates. A contract is therefore necessary. There is no dispute about this. There is room for difference of opinion only concerning the terms of the contract. Some contracts are very stringent. Others are very lax. Where is the golden mean? What are fair terms? Three chief theories have been advanced in answer to this question based respectively on utility of service, cost of service and market value of service.

From the standpoint of utility they say that a water company ought to be recompensed for the great service it has done the public and that inasmuch as the new system is a great improvement on the old system of water-carriers, the public ought to be willing to pay as much as the company demands, or else return to the abandoned method, from which the company has so happily delivered them. The water-rates are low compared with the charges of water-carriers, therefore the people who complain are ungrateful and stupid and ought to have their water supply shut off. This theory seems absurd when thus badly stated, but it is frequently advanced in a much more plausible form.

From the standpoint of cost of service it is held

that capital invested in good faith ought to receive adequate returns. What are adequate returns? Well, the capitalist ought to have a fair interest on his money, say five per cent. He ought also to have further returns to cover risk; a sort of insurance premium. He ought also to have enough to form a sinking fund, so that at the end of the contract period he may have his original capital returned to him. Also he ought to have some profit. Every business man wants profit and ought to have it.

However reasonable this theory may seem, it is too indefinite for practical purposes and there is too much room for blundering and dishonesty in the application of it. Why should a capitalist earn five per cent. interest if he invest his money foolishly? If he build a useless reservoir at a cost of a million dollars, why should he expect to earn five per cent. on that million? If he manage the company extravagantly, why should he earn five per cent. on capital thus wasted? Why should he have any insurance against risk? There ought to be no risk, despite the fallibility of mathematicians, the unreliability of contractors and the duplicity of aldermen. Or if we admit the existence of risk, if the future can be said to exist, we cannot admit the existence of any mathematical principle which would accurately determine the quantity of risk, the probability of loss. Why,

again, should the capitalist be so greedy as to demand profit? With his market ready to hand, his five per cent. interest, his risk completely covered, on what ground does he claim profits? As well claim profits on an investment in government bonds. Profits cannot be allowed. And what shall we say of obscure systems of bookkeeping, of stock-watering, of secret deals with politicians, of the thousand and one little circumstances that modify our judgment concerning fair and unfair terms? In short, the cost of service theory is practically if not theoretically invalid.

The true theory is the market value theory, otherwise known as the bargain theory. When a city is about to grant a franchise for a term of years let it advertise for bids. Capitalists will then make estimates, will allow for interest, insurance and profits and will offer to take the contract on terms that they can afford to make. Other capitalists will propose other terms. There will be initial competition, which will go far toward preventing the existence of monopoly profits for a long time to come. The city will sell the franchise on the most favorable terms. The company that buys it will do so with its eyes open and ready to take its chances of success or failure. The city will get a good service at low rates and the company will earn fair dividends. Provided that there be no combination among capitalists to

defraud the city and provided that the city officials be honest enough to award the contract to the company offering the most favorable terms, the bargain method will secure the best results for each and all.

There are many varieties of contracts. There are long-time contracts and short-time contracts. There are contracts that hold unchanged for the entire period and contracts subject to revision at stated intervals. The company may give an initial bonus to the city, in payment for the franchise, or it may pay a fixed sum every year, or it may pay a percentage of the net profits or a percentage of the gross returns. The company may agree to supply water for city purposes or light for city lamps free of charge or at reduced rates. The contract may fix rates, whether they are to be uniform for the whole period or changing at certain intervals of time, under certain changing conditions or at the will of a commission of supervisors.

These are only a few of the many variations that are found in contracts for the granting of municipal franchises. No doubt some forms of contract are better than others, but more important than any form of contract is the good faith in which it is made. The contract ought to be made in good faith by both parties and when made it ought to be faithfully executed. It is neces-

sary that the city government treat the holders of a franchise with absolute fairness and it is equally necessary that similar behavior be secured on the other side. A city government that plays fast and loose with the rights of capitalists cannot expect to make favorable terms when the time comes for a new contract. A company that abuses its privileges cannot expect to have these privileges renewed. Good city government and good faith in the making and carrying out of contracts have an economic value that is hard to measure in dollars and cents.

The let-alone policy is not adaptable to municipal monopolies, however beneficial that policy may be in the ordinary conduct of business. Wherever monopoly exists the interests of the people are so intimately concerned as to render a reasonable degree of public control just and desirable. Because of this general public interest and because of special privileges in regard to the use of the public streets, it may rightly be said that municipal monopolies possess a semi-public character which must forever exclude the policy of let-alone. The problem of municipal monopolies is therefore confined to the respective merits of two plans, the plan of public ownership and the plan of private ownership with public control.

There is much to be said in favor of the system of private ownership. It is supported by priority of

existence and by the conservative instincts of mankind. It is also justified in view of the acquisitive instincts of human beings. Man is naturally acquisitive. If you give him a chance he will work and work hard to acquire the greatest possible amount of property with the least possible expenditure of effort. This economy of effort and relative magnitude of result is peculiar to individual enterprise carried on for the sake of private gain. Public officials exhibit a highly developed economy of effort without a corresponding magnitude of result, because they lack the stimulus of the hope of private gain. Therefore a private owner and to a less degree a private company, will practice economy wherever possible. It will build its plant at the lowest cost. It will never pay excessive salaries. It will dismiss inefficient servants without fear or favor. It will have thorough system in its management. It will let its contracts on the most favorable terms. It will introduce improved machinery and methods wherever they are likely to secure a saving of any kind. It will, in short, display enterprise and diligence and good management and thereby the total wealth of the community will be increased, without loss or damage to anybody.

It is no injury to the community but a great and positive benefit to have in its midst men of wealth who have earned their wealth by produc-

ing and saving and not by acquiring what other men have produced. If it is true, which may perhaps be disputed, that the Standard Oil magnates have acquired their great fortunes by economies in production and not by raising the price of oil nor by lowering the rate of wages nor by injuring their fellow producers nor by corrupting railways nor by bribing legislators and judges, then it is true that they are benefactors to the community in which they live and to the world at large. Their millions are just so much added wealth in the shape of improved land, valuable buildings, new railways, additional cattle, horses, ships, money and other personal property. All this property pays taxes to the government. It cannot exist in the community without adding to the wealth of the people at large. If the owner engages in trade he exchanges his property for some other property, to the mutual benefit of buyer and seller. If he gives it away in a wise manner he is a public benefactor. He cannot even consume it without sharing it with merchants and laborers. In short, the rich man cannot live to himself and must do good unless he hides his property in the earth.

Therefore it is reasonable to say that in case a city government could manage a street railway so as to secure as low rates and as good service as could be secured under private ownership,

even then it would not be justified in taking away from a private owner a great source of profit, unless a good part of that profit could be secured for the city itself. It is not enough to show that the city could do as well as a private company in regard to rates and efficiency. It must do better than that. If a private company has earned a clear profit of a million dollars a year and if the city, in taking up the work, does the same work at the same prices and paying the same wages, but without earning the extra profit, because of extravagant or inefficient management, is it not clear that the community is poorer than it was before by a million dollars a year?

It is a pertinent question to ask how much saving to a community would justify the turning over of a private source of profit to the public use. If the source of profit, when it becomes the property of the public, begins to dry up and become scanty, how much reduction in price will pay for the deficient flow of profit? Advocates of municipal ownership often think that they have done enough when they have shown that public ownership can secure as low rates and as good service as private ownership, while also providing a fair interest on the capital invested and fair wages to employees. They have not done enough. They must also show reason for the extinction of private profit and of opportunities for private advancement and social progress through private effort.

That there are objections to the system of private ownership with public control cannot be denied. It is stated that private companies charge higher rates and pay lower wages than exist under public ownership. It is hard to prove this and if it were proved, it might be said that this state of affairs is due to an inadequate contract. The franchise may have been given away or sold on unfavorable terms. When the old contract expires such defects can be remedied. Ought we not to have patience for a few years to see whether we cannot do as well by selling the franchise at its full value as by undertaking the responsibilities of public ownership?

It is also said that there is more corruption under private than under public ownership. There is much corruption in both cases. In the one case the city officials are corrupted by the great companies, in the other the city officials corrupt themselves and whatever they touch. It is hard to say which form of corruption is the worse and it is not easy to measure quantities of corruption for the purpose of comparison.

Again, it is said that we ought not to encourage the formation of great fortunes, such as that of a great capitalist of Chicago, who has made millions out of street railways. But it has not been shown that great fortunes are the inevitable outcome of private ownership of municipal monopolies under

proper restrictions. Even if great fortunes are thus created, the evils of the unequal distribution of wealth may not be sufficiently great to justify the abolition of private and the establishment of public ownership. The advocates of public ownership must make out a very clear case if they would prove that the time-honored system should be abolished and a more or less untried system established in its place.

The advocates of municipal ownership are many and enthusiastic. They point to the success of many municipal enterprises in Great Britain and on the continent of Europe. They say that in may cases lower rates and better service have been secured than where private ownership is still maintained. They claim that municipal government will be purified by increasing its activities. The people will see the importance of electing honest and capable councillors and will insist on the organization of a complete and highly efficient civil service. The spoils system will be abolished and favoritism will be done away. The profits of municipal enterprise will be used to defray the ordinary expenses of the city government and by and by municipal taxes will be no more.

The opponents of municipal ownership urge that while rates may be slightly lowered, the cost of service will be greater than under private ownership. It will be found impossible to hurry the

civil servants. They will not lose sleep over municipal business. They will not be careful to let contracts on the most favorable terms. They will not be enterprising and progressive. There will be too much red tape. There will be overmuch corruption. Also it must be remembered that the initial expense of establishing municipal works will be very great and will involve the creation of a tremendous municipal debt that will not be wiped out for years to come. Especially where there is already a private plant in existence will the initial expense be very great, for the private owners must be compensated. The city's chance of profit will be discounted at once, for the arbitrator's award will give to the private owners at least the market value of their property, which will in all probability be estimated according to the market value of the company's stock and bonds, which will depend upon the present and prospective earnings of the plant. There may also be trouble about vested interests and many lawsuits may arise.

In any case there will be a great expense to the municipal government and no little risk. It may be that the system of electric traction will in a few years be entirely superseded by some other method of locomotion, even as the horse tramways of Glasgow were rendered out of date by the electric tramways established in more pro-

gressive cities. In such a case their rails would sell as old iron, their cars as kindling wood and the city would be at the expense of introducing a new system and a new plant, at the cost of a new municipal debt. Finally, the opponents of municipal ownership say that we do not want a bureaucracy such as exists in Germany, slow, unprogressive, arrogant, but that we had better, as long as possible, carry on our industry upon those American methods which have placed the United States in the van of industrial progress.

From the war of theories we turn to the war of statistics. Without quoting figures it may be said that statistics apparently favor the municipal ownership of water-works and gas, especially in Great Britain. The success of municipal tramways is doubtful and even where considerable success has been attained, as in Glasgow and Sheffield, it is highly probable that the municipal authorities would have done better to have sold the franchises to enterprising American tramway companies. British experience is by no means conclusive for the United States, and municipal experiments in the United States have been too few as yet to prove or disprove the desirability of municipal ownership, except in special cases.

Methods of accounting are so various and statistics are often so misleading that it is extremely difficult to arrive at any satisfactory or definite

conclusions as to the respective merits of public and private ownership. Perhaps we cannot do better than to quote the conclusions of two investigators, A. H. Sinclair, writing in 1891, and W. M. Daniels in 1899. Mr. Sinclair's conclusions are as follows:

1. "That water supply is an undertaking in which municipal management has been eminently successful, both in America and in Europe, and in both has yielded large financial returns, which have been used to lighten the burden of general taxation."

2. "That while the municipal direction of street-railways has been attempted but seldom in Europe and never in America, street-car service is a source whence large revenues might be derived by great and growing cities, revenues which may be obtained either through the power of control rendered necessary by their public character, or by their direct operation on the part of the city."

3. "That the gas industry, where undertaken by the municipal authorities, has been as successful as when in private hands, and has, in addition, provided large sums for the local treasury."

4. "That electric lighting is still in too unsettled a stage for us to be able to draw definite conclusions regarding it. There are indications that under ordinary conditions it would pay a town better to lease the franchise."

5. "That of telephone service so little is yet known that though its peculiarities call for more than the ordinary amount of public control, it would be unwise to attempt municipal management."

Professor Daniels draws the following conclusions:

1. "The price charged by private companies for the supply of water exceeds by twenty-five to forty-three per cent. the price charged by municipal water-works."

2. "The cost of the water supply by municipalities probably exceeds the cost incurred by private companies, though how far the increased cost augments general taxes it is difficult to say."

3. "While the price of gas in England under both systems is markedly less than the price of gas under either system in the United States, the rate of reduction in gas prices in the United States since 1870 seems to have been more rapid than in England."

4. "The cost of producing gas has probably been less under private than under public management."

5. "The price charged for gas by public companies in England appears to be less by seven or eight per cent. than the charge made by private companies, but no such general assertion can be made with respect to the United States."

6. "Public electric light plants in this country cannot be said generally to furnish electricity at a lower cost or price than private companies. The evidence rather tends to show that the advantage lies with private companies."

7. "Local transportation has been undertaken by several British municipalities with varying success. In this country it is as yet untried. When all circumstances are taken into consideration, it would appear that our transportation service is not only immeasurably more efficient than the British tramway service, but that the charges for distance traversed are really less in the United States than upon the most successful of municipal lines in Great Britain."

"The generalizations which may be drawn from this summary are that cost is almost certain to be less under a private company than under city management; that the price charged the consumer may be less under municipal public works, but that there is no assurance that this will be the case; that efficiency of service is likely to be greater under a private system, where improvements are rapidly introduced, than under a public system where they are slowly adopted. When to these tentative conclusions we add that the largest experiment in municipal industries in the United States, the Philadelphia gas-works, after an experience of over half a century has proved an unquestioned financial failure, the presumption against

direct municipal service in this country at the present time gathers great strength. Political conditions being what they are, it seems fairly safe to assert that the city taxpayer would probably be hit harder by public waste and public stealing than by private profits. Obviously the conclusion drawn is favorable to the franchise system rather than to the system of municipal industry."

In conclusion we may say that private ownership and management should not be abolished without good reason. The quoting of successful experiments in Great Britain, or even in the United States, cannot be considered in itself sufficient to prove the advisability of undertaking similar experiments in other places. Each case ought to be decided on its merits and a careful consideration of local conditions must be made if the municipality is not to take a leap in the dark.

Whether we are to have municipal ownership or private ownership with municipal control it will be necessary to secure good municipal government. Municipal politics must be separated from state and federal politics. Respectable and representative citizens must be willing to accept office. Civic patriotism must be developed. Certain changes in the form of city government will probably be needed. When the people feel the need of good government they will be able to secure it and the problem of municipal monopolies will be insoluble no more.

VII.

RAILWAYS AS MONOPOLIES.

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CHAPTER VII.

RAILWAYS AS MONOPOLIES.

The opening of the Stockton and Darlington Railway on September 27, 1825, marks the beginning of a new period in industrial history. Not long thereafter steam railways were established in almost every part of the civilized world.

The first steam railway in the United States was the Baltimore and Ohio, chartered in 1827 and begun in the following year. Since that time, but especially since 1850 the growth of railways in the United States has been enormous and wonderful. The following table shows this growth by periods since 1830:

Years.	Miles built.
1830–40	2,000
1840–50	5,000
1850–60	20,000
1860–70	16,000
1870–75	27,000
1875–80	14,000
1880–85	39,000
1885–90	40,000
1890–95	17,000
1895–99	9,000
Total	189,000

The rapid extension of the railway system has rendered possible the rapid settlement of the United States and the consequent increase in population. Without the railways, settlement would have proceeded but slowly, except in the neighborhood of the water courses. Where facilities for transportation are poor the people are poor and in general few in number. They pay high prices for what they import and receive low prices for what they export. Exchange is hampered. The consumer cannot buy and the producer cannot sell, for the expenses of transportation are too great. This condition of affairs is seen in many a backwoods settlement of the present day. The farmer receives twenty-five cents for a bushel of wheat, five cents for a dozen of eggs, one dollar for a cord of wood and five dollars for a month's board. He pays fifteen cents a pound for sugar, twenty dollars for a common ready-made suit of clothes and similar prices for plows, harness, shoes, sewing-machines and all other freight-paying articles.

When a railway is built the cost of transportation is enormously reduced. The saving thereby effected accrues largely to the farmer. He can now sell his wheat for fifty cents, his eggs for ten cents, his cord wood for two dollars and the summer boarder is glad to live on the fat of the land at ten or fifteen dollars a month. At the same time the prices of imported articles are greatly

reduced and the farmer can therefore consume more of them. The final result is a great increase of wealth in both town and country, with a corresponding increase in population and in civilization.

The railway is a labor-saving machine. The amount of labor saved can be measured by the work done by the machine. David A. Wells has thus expressed it: "In the year 1887 the freight transportation by the railroads of the United States was equivalent to 60,061,069,996 tons carried one mile; while the population for that year was somewhat in excess of 60,000,000. The railroad freight service of the United States for 1887 was therefore equivalent to carrying a thousand tons one mile for every person, or every ton a thousand miles. The average cost of this service was about ten dollars per annum for every person. But if it had been entirely performed by horse-power even under the most favorable of old-time conditions, its cost would have been about two hundred dollars to each inhabitant, which in turn would represent an expenditure greater than the entire value of the annual products of the country." The railways of the United States have been built at great cost, but they have repaid their cost many times over.

The railways of the United States have been built by capitalists, assisted by the people as rep-

resented in federal, state and municipal governments. Great quantities of public land have been given to railway companies. The Northern Pacific received 48,000,000 acres. The Union Pacific and the Central Pacific received $25,000 a mile and over 30,000,000 acres of land. In all, the United States government has given 211,890,489 acres of land for the encouragement of railway building. Other inducements have been offered and accepted, such as gifts of municipal bonds, cash bonuses, rights of way, exemptions from taxation. As James G. Blaine has said: "If all the advances to railway companies, together with all the outright gifts by towns, cities, counties, states and the nation, be added together, their money value would not fall short of $1,000,000,000." Apart from these aids, the railways have been built by funds supplied by stockholders and bondholders, especially the latter.

It is very difficult to estimate the amount of money spent by the investors in the construction of the roads. The railways of the United States, with an aggregate mileage in 1899 of 189,294.66 miles, are capitalized at $11,033,954,898, of which $5,515,011,726, is held by the stockholders and $5,518,943,172 by the bondholders. It is highly probable that the total cost to the original investors, apart from loss of interest, has not been greater than the face value of the bonds and that

the cost of construction has been even less than that.

The construction of railways in the United States has not as a rule proceeded according to any definite or prearranged plan, such as has been followed in France, where the railways have been built under the supervision and control of the government. Railways have often been built in advance of settlement and not infrequently, as in the case of the trans-continental lines, through great tracts of country unsuited to settlement. There has been much duplication of lines, not to speak of triplication and worse. It is not uncommon to see parallel lines of rival companies running side by side for many miles, doing work that might as well or better be done by a single line. "Between Chicago and Cairo, a distance of three hundred and sixty-seven miles, there are twenty-two railway companies whose lines cross that of the Illinois Central — eighteen of the twenty-two have passed into the hands of a receiver since 1874."

The construction of these parallel and superfluous lines has been due to a mania for railway building or to the necessities of rival companies or to a belief in the benefits of competition or to government aid or to all of these causes combined. These periodical manias are encouraged by promoters of companies who understand human na-

ture and who know that great profits are to be made by construction companies, whether the shareholders of the railway company ever receive dividends or not. Yet these shareholders, or at least an inside ring of managers, frequently enjoy a dual existence. In their capacity as a construction company they receive ten or twenty or forty or sixty per cent. on their capital outlay. In their capacity as shareholders of the railway company they hold up empty hands to show that they have received no dividends on stock for which they paid perhaps less than ten cents on the dollar. It is a curious fact that managers of roads that never pay dividends and ultimately fall into the hands of receivers often acquire immense fortunes through their connection with the bankrupt roads. The opportunities for profit through construction companies and land companies and through speculation in the stock exchange are so great that more than heroic virtue would be required to withstand the temptations.

As a result of excessive railway building it has come to pass that the railways of the United States have not, as a rule, paid an adequate interest on money invested. While inside rings have made enormous gains, the "lambs" have been fleeced and thousands of innocent investors, at home and abroad, have rued the day they bought American railway "securities."

During the year ending June 30, 1899, 59 per cent. of all railway stocks in the United States paid no dividends and the remaining 41 per cent. paid an average dividend of 4.96 per cent. In group IX, in the classification of the Inter-State Commerce Commission, which includes Texas, Louisiana and part of New Mexico, 91 per cent. of the railway stocks paid no dividends. The investors in bonds have been more fortunate, for the bonded indebtedness is a first lien on the property of a railway company and if there is any net income at all, the bondholders' interest must be paid before the stockholders can receive anything. During the same year 10.45 per cent. of the railway bonds paid no interest, 30.32 per cent. paid from one to four per cent., 54.47 per cent. paid from four to seven per cent., and 4.76 per cent. paid seven per cent. and over.

It is not claimed, therefore, that the railway companies, one with another receive excessive returns upon the capital invested. Neither can it be justly claimed that the rates are too high. In the year 1868 the average freight rate per ton-mile was 2.453 cents, a low rate for that time. In the year 1899 the average published rate was .724 cent per ton-mile, a very low rate compared with railway rates in other parts of the world and a wonderful rate when compared with rates of transportation by horses or oxen in the early part

of the nineteenth century. The passenger rates are also low, being on the average 1.925 cents per passenger-mile, a trifle higher than the third-class rates in England and on the continent of Europe, but lower than the second-class rates in those countries.

The financial condition of railway companies in the United States is steadily improving. In 1896 there were 151 roads in the hands of receivers, representing a total mileage of 30,475 miles. In 1899 there were but 71 roads in this condition, with a mileage of only 9,853 miles. The traffic has greatly increased during the past few years. The rates of interest on both stocks and bonds are rising slowly but surely. The time is probably not far distant when the entire capital of $11,000,000,000 will be paying a fair rate of interest.

Notwithstanding the fact that average rates are low and average returns to capital very moderate, it must still be maintained that railway corporations are monopolists. Where but one railway exists the monopoly is complete. There is no monopoly of transportation by water nor by horse-carriage, ox-wagon, hand-cart, or flying-machine. There is no monopoly of transportation in general but only of railway transportation. If any merchant wishes to ship his goods by any means of conveyance other than the railway, he is at perfect liberty so to do. There is no physical com-

pulsion, no outward interference with personal liberty, but there is compulsion and interference of another kind. If the merchant will not ship his goods by the railway and at railway rates, in so far as his business is concerned he must prepare to die and be buried and to see another reign in his stead. He is therefore compelled to use the railway and is to that extent under the power of the railway company.

Before the railway was built there was perhaps competition between the owners of hay-carts and stage-coaches and there was no monopoly of transportation of freight or passengers. When the railway was built the plane of competition was lowered until hay-carts and stage-coaches could no longer compete and therefore left the field. At the old rates they could have continued to compete but at the new and lower rates they could not compete. The railway therefore caused rates to fall and at the same time established a monopoly.

The extent and power of the railway's monopoly is measured by its control over rates. The highest rate that the railway can charge is a little less than the lowest possible rate by the old form of transportation. The lowest rate it can afford to make is usually measured by the income which it needs in order to continue to pay its running expenses. Between these two points the railway

has control of rates. The maximum rate would be the actual rate if it were the rate most advantageous to the railway, but this is seldom the case. It is usually more profitable to haul a large amount of traffic at a fairly low rate than a small amount at a very high rate. The actual rate is therefore fixed at the point of greatest net returns on the principle of "charging what the traffic will bear." It may be that the railway company will see fit to charge a rate even lower than this in order to discourage the building of a rival road or to propitiate the public or to attain some other end. The fact that the railway company does not always choose to exercise the powers of a monopolist does not deprive it of its monopolistic character The significant fact is that within certain limits it can raise and lower its rates.

When a rival road is built the conditions are not altered except at certain places called competitive points. It seldom happens that rival roads run side by side for any great distance. There are therefore along the line of every railway many places that do not enjoy the benefits of competition but are many miles from any other road. At these local points the railway still enjoys a monopoly and still exercises control over rates, according to the principle and rule of charging what the traffic will bear or what will produce the greatest net returns. Inasmuch as the great

majority of small towns and country districts in the United States are served by only one railway, it is right to say that the railways still possess and exercise the power of monopoly to a very great extent.

It is true that competition is not entirely excluded in regard to local points. Wheat from ten thousand local points proceeds to the same market at Chicago or New York and must be sold at the same price in these markets. If now a railway charge too high a rate, the farmers of its district will not be able to compete with the farmers from districts where the rates are lower and will therefore cease to ship wheat, to the damage of the local traffic of the too grasping railway. This would be charging more than the traffic could bear and would destroy the traffic and the railway as well. Competition such as this would prevent the railway from charging more than the traffic could bear, but would not prevent it from charging as much as the traffic could bear or as much as the farmers could possibly stand without going out of their business and more than would be charged if competition were possible. When a rival line is built between any two places, those places are called competitive points. Whatever the cause of the construction of the new line, the people rejoice in the hope of lively competition and lower rates. Their hopes are often realized and as often

shattered. For a time, competition holds sway and rates fall. They may fall very low. It is hard to set a limit below which they cannot fall. They have been known to fall to zero. It is not possible for rates to remain at zero for a long time, unless the competing railways have a great reserve of capital. There is, however, a point at which they can remain for an indefinite period of time, without drawing on the reserve. This is the point fixed by the running expenses of the railway. While rates are sufficient to pay the running expenses of a road, including salaries, repairs, and interest on bonds, the road will continue to run, although the stockholders may receive no dividends.

In the case of an ordinary business, where there is no great amount of fixed capital, the business will not long continue to exist while earning no interest on the capital employed. The capital will, if possible, be withdrawn and invested elsewhere. In the case of a railway this seldom, if ever, takes place. A railway, once built, remains a railway and continues in operation. If rates are not high enough to pay interest on the capital invested they may remain low during many years, provided that they are sufficient to cover running expenses. There is usually a possibility and even a probability that the road will in time pay something to its owners, and since the owners cannot

sell an unprofitable road, they see no harm in keeping it running and in good condition, waiting for better times.

Therefore when competition exists between two or more railways, it is apt to be very fierce and rates are apt to sink far below the point of "greatest net returns" and far below the "cost of production" and at times below the cost of running the road and even down to nothing and even below nothing, for railways have been known to pay passengers for allowing themselves to be "transported."

These wars of rates are very harmful to the competing roads. This is cut-throat competition. This is war to the knife. When the war is between a financially strong road and a financially weak one, the weak road is generally killed and afterward eaten by its victorious enemy. Thus peace is restored and monopoly reigns again. When two great and powerful companies go to war, they fight like Roland and Oliver, until both are exhausted and neither can inflict a fatal wound. Then, or perhaps before the point of complete exhaustion is reached, they ask one another the cause of so disastrous a conflict. Thereupon they discover that their interests are to a large extent identical, that they ought not to have made war upon one another but upon the public and that they ought always to have been the best of friends.

They agree to make peace. They have suffered in the conflict. They agree to indemnify themselves by raising rates. They try to raise rates to a point equal to that maintained before the war or even to a higher point than that. This is not always possible but rates are fixed at as high a standard as can safely be maintained. Peace and monopoly are restored.

There are different kinds of agreements. Sometimes the companies agree to maintain rates. Sometimes they agree to divide the field or to divide the earnings and railway pools are formed of one kind and another but all based upon the same principle of securing sufficient traffic at sufficiently high rates. At times this ideal cannot be realized and it is found that the traffic is not sufficient at any rates to maintain both roads in a prosperous condition. Both roads still continue to exist, where a single road might have earned comfortable dividends.

Although the railway combination is a monopolist in its essential nature, the monopoly is modified by a certain amount of competition. Even after combination there is a certain amount of competition between the railways. There are some routes more direct than others or more agreeable to passengers because of fine scenery or good connections. Some roads are preferred to others because of better cars, more convenient

time-schedules, more affable conductors. Some have more enterprising managers and more active agents than their rivals can procure. In all these and in other ways, railways compete with one another after they have made agreements concerning rates.

There is still another kind of competition that is regarded as a mortal sin in the eyes of the framers of agreements but which is constantly committed by these very persons in their capacity as agents of the particular roads to which they belong. It is the sin of cutting rates. It is a secret sin. It is due to special and extraordinary temptation. The temptation is greatest when rates are highest. The penalty is severe. The persistent offender is cast out of the combination. The surviving and virtuous members wage war against him until he is destroyed or comes to see the error of his ways. Secret rate-cutting is the chief source of weakness and instability in railway agreements and the chief cause of their downfall. A war of rates is the usual result, followed by another agreement, combination or consolidation.

It is to the interest of the combination to establish a moderately low rate in order to lessen the inducement to rate-cutting. The permanence of a combination is best secured by low rates. The higher the rate, the more unstable the combination. So unstable and so unsatisfactory are the or-

dinary railway combinations or agreements, that there is a constant tendency toward the consolidation of rival roads under a single management.

In the year 1847, there were in the United States, 5,000 miles of railway owned by 300 independent companies, giving an average of less than 20 miles per company. In the year 1872 there were 55,000 miles, of which 13,000 miles were owned by 12 companies. In the year 1898 there were 836 independent companies owning or operating 186,396.32 miles of railway, of which about 105,000 miles were operated by 44 companies, with an average of 2,400 miles per company. Also many of the so-called independent roads are not independent at all, but are under the control of one or more of the great railway companies.

The process of consolidation renders competition impossible in many parts of the country and in those parts railway rates are regulated according to the monopolistic principle of charging what the traffic will bear. Where there are two or more great companies, competition, when it takes place, is apt to be very fierce. The advantages of agreement are then clearly seen. Agreement is therefore the rule and competition the exception and the tendency toward further consolidation continues to operate. In Canada, practically the total railway mileage is operated by two companies and the time may not be far distant when a similar condition will prevail in the United States.

It is probably correct to say that throughout the United States the railway companies exercise the powers of monopoly to a very large extent, during most of the time, at practically all the railway stations, local and competitive. At local points there is no competition. At competitive points there is agreement between the roads. In both cases rates are controlled by the railways. Local rates are as a rule high, because it is thought that the traffic can bear high rates and because the railway does not think it worth while to carry the small traffic at low rates. Competitive rates are low, chiefly because it pays better to carry a large quantity of goods at low rates than a small quantity at high rates. If the traffic could bear high rates, the rates would be raised by agreement between the roads.

The railways of the United States do not, as a rule, pay adequate dividends on the capital invested, partly because too many roads have been built, too much capital expended, but also, and perhaps chiefly because many roads, like the Atchison, Topeka and Santa Fé, have been built with money derived from the sale of bonds and not from the sale of stock. The stock has often been sold at low figures or even given away. It is largely watered. The rates that the traffic can bear are not sufficient to pay running expenses, interest on bonds and after that to leave any great surplus to be distributed among the stockholders.

As population increases, especially the population of the Western States, traffic will proportionately increase and will yield increased dividends even without any increase in rates.

At the present time it is not correct to say that average railway rates in the United States are too high. If it is true that the railways have the powers of monopoly, it is equally true that up to the present time, and as a rule, they have not exercised them in the way of charging exorbitant average rates. What the railways may do in the future, when more gigantic consolidations will be formed and the traffic will be sufficient to bear high rates, can only be a subject for conjecture. As for the present, it is tolerably certain that if all the railways were owned by the government and managed in the most efficient way known to civil servants, average railway rates would be no lower than they are now and would probably be somewhat higher.

The railways are not accused of having compelled the people as a whole to bear too heavy a burden but they are charged with having compelled some of the people to bear more than their share in order that others may bear less. The distribution of wealth, it is claimed, has been rendered more inequitable by unjust discriminations in railway rates.

The charge is just. The railways do practice

discrimination by virtue of their monopoly and their control of rates. The report of the Inter-State Commerce Commission for 1898 contains the following statement, repeated in the report for 1899: "Meanwhile the situation has become intolerable, both from the standpoint of the public and the carriers. Tariffs are disregarded, discriminations constantly occur, the price at which transportation can be obtained is fluctuating and uncertain. Railroad managers are distrustful of each other, and shippers all the while in doubt as to the rates secured by their competitors. All this augments the advantages of large capital and tends to the injury and often to the ruin of smaller dealers. These are not only matters of gravest consequence to the business welfare of the country, but they concern in no less degree the higher interests of public morality."

Discriminations are of various kinds and are generally classified under three heads — discriminations between classes of freight, discriminations between places and discriminations between persons. Inasmuch as classes of freight and places do not feel, but are intimately connected with people who do feel, the first and second kinds of discrimination may for practical purposes be reduced to the third. All discriminations that are of economic or ethical importance are discriminations between persons.

Discrimination between different classes of freight is unavoidable. It costs a railway company little, if any more, to transport a car-load of silk than a car-load of coal, yet the coal must be hauled at a much lower rate than the silk, if it is to be hauled at all. The average rate of .724 cent per ton-mile, if applied to both coal and silk, would be a charge of $7.24 per ton for a thousand miles. This charge would amount to perhaps 200% on the value of the coal and perhaps not more than a tenth of 1% on the value of the silk. The traffic in coal could not bear this charge or if it could bear it, it would be an intolerable burden upon the consumers of coal, falling most heavily upon the middle and lower classes of the people. The traffic in silk could bear a rate ten times or even one hundred times as high as the average rate without any great injury to the traffic or to the consumers.

It has therefore come to pass that there is a classification of freight based on value and not on weight and the rates are based not on the cost of service but on what the traffic will bear. That this is a correct principle in theory can hardly be doubted. There ought to be a settled classification of freight in accordance with a rough estimate of values. In this way, the people would pay according to their ability and the service rendered. The actual classification is, however, not always

based upon relative values, but upon some more arbitrary application of the principle of charging what the traffic will bear. If silk were placed in the lowest class and coal in the highest, we should have two extreme but not impossible cases. Between these extremes there is vast room for inconsistencies consistent with the principle of charging what the traffic will bear.

More important than discrimination between classes of freight is discrimination between places. It is sometimes in the power of a railway to crush a city into a town, a town into a village. It is not infrequently within the power of a railway or a combination of railways to raise a village to the wealth and status of a city, a city to the power and grandeur of a metropolis. All that is necessary is to lower rates in the one case or to raise them in the other. Other things being equal, the town that gets the lower rates will surpass its rival, capture its trade, adopt its citizens. A city that enjoys low railway rates is a Mecca for manufacturers and merchants. Coal is plentiful, raw materials are cheap, goods can be shipped to consumers at the lowest rates, every circumstance is favorable. The railways have had much to do with the concentration of population in our great cities and with the consequent depletion and ruin of our country towns.

This discrimination has been due to a variety

of causes. Sometimes nature has already discriminated in favor of a city by supplying a favorable location in a rich country and near a convenient waterway. Cities situated on the Great Lakes, the St. Lawrence, the Mississippi, or on the ocean, have a great advantage over inland cities. They have cheap transportation by water, at least in summer, and railway rates must fall, to compete with rates by steamship and sailing vessel. It pays a railway to compete with water transportation at rates that will barely cover running expenses, when the local freight can be carried at rates sufficient to pay dividends. The railway must charge higher rates for local traffic in order to make up for the low rates on through traffic. Local merchants and manufacturers in local towns pay more, that metropolitan merchants and manufacturers may pay less. The rates from San Francisco to Chicago are often no higher than the rates from San Francisco to Denver or from Denver to Chicago or from Denver to Carson City. The difference between long and short hauls has nothing to do with the rates in such cases. The distance between San Francisco to New York by way of the Canadian Pacific is a thousand miles greater than by the direct American route, but the Canadian Pacific not only charges the same rates as the American lines, but actually claims a differential, because of the greater time required for transportation by the longer route.

Another reason for discrimination between places is found in the fact that when a city becomes large the volume of traffic becomes greater and the railways can handle it with greater care and economy than the same volume of traffic from ten or twenty smaller cities. A great city tends to become greater for other reasons, but it is to the interest of the railways to encourage this growth, and this it does by the method of low rates. From the point of view of the railway, it is not necessary that small cities should do any manufacturing. The railway prefers to have it done in large cities and to restrict the small towns to the work of local distribution. Even the business of distributing goods, as carried on by wholesale houses, is often taken away from them by rates enabling manufacturers in large cities to sell directly to the country stores. The tendency is therefore to build up the country districts and the metropolis at the expense of the small city. Perhaps this tends to economy of energy, but one cannot but sympathize with the angry feelings of the citizens of a small city, when they find themselves sacrificed for the benefit of society at large. If railway rates could be made equal throughout the United States, it is highly probable that the great cities would grow less rapidly and that manufacturing industries would spring up in many small towns.

Another reason for discrimination is the existence of competing railways. Where two or more railways compete, it is impossible to avoid a fall in rates and when combination takes place, it is difficult to raise rates to the former standard. A place where there are several roads has therefore, in general, lower rates than a place where there is only one road.

There are still other reasons for discrimination between places. Sometimes the railway magnates have business interests in certain places, they hold land, they own houses, they have shares in industrial companies. They decide that these places must be built up and they build them up by means of discriminating rates. Sometimes the citizens of one city acquire influence with the railway companies and thus obtain concessions denied to less influential or less enterprising cities.

For these and other reasons discriminations exist. The effects are not wholly evil in the long run but much temporary injustice is done and it is a grave question whether the growth of enormous cities has not been excessive and unhealthy. It is also a grave question whether the railways ought to be allowed to exercise such great power over the industrial development of the country. They have powers of life and death. If the interests of the railways are identical with those of the people at large and if they can be trusted to perceive this

identity, then we can leave the future in their hands and trust that only good will come to each and all.

Still more serious than discrimination between places is direct discrimination between persons. There is perhaps a natural and necessary discrimination between persons, according to the amount of their shipments. A man who ships by the car-load, can with some show of reason claim a lower rate than the man who ships by the ton or hundredweight. Ten shipments of one-tenth of a car-load are more expensive to the railway than one shipment of a whole car-load, especially where the large shipper loads and unloads his own cars. Perhaps it may be admitted that one who ships by the car-load, loading and unloading his own cars, ought to enjoy a lower rate than one who ships less than a car-load at a time. Beyond this point, it is hard to see, on the basis of cost of service, why any further discrimination should be made. The cost of hauling twenty cars belonging to one shipper, is not much less than the cost of hauling twenty cars belonging to twenty shippers. There is a difference, but not sufficient to justify any great discrimination.

Discriminations are granted for other reasons than the consideration of cost of service. If there are several competing companies, the temptation to discriminate is very great. The small shipper

has little power to secure low rates. The railways do not care whether they secure his shipments or not, unless he is in combination with a number of small shippers. When a large shipper enters a railway office he is treated with great consideration. When he asks for low rates the officials are apt to grant them if they possibly can. If they refuse at first a threat to ship by some other road soon brings about a more compromising attitude.

Another aspect of discrimination is clearly shown in the testimony of C. M. Wicker of Chicago. "Here is quite a grain point in Iowa, where there are five or six elevators. As a railroad man, I would try and hold all these dealers on a level keel, and give them all the same tariff rate. But suppose there was a road five or six miles across the country and all these dealers should begin to drop in on me every day or two and tell me that the road across the country was reaching within a mile or two of our station and drawing to itself all the grain. You might say that it would be the right and just thing to do to give all the five or six dealers at the station, a special rate to meet that competition through the country. But, as a railroad man, I can accomplish the purpose better by picking out one good, smart, live man, and, giving him a concession of three or four cents a bushel, let him go there and scoop the business.

I would get the tonnage, and that is what I want. But if I give it to five, it is known in a very short time." Such discriminations as this occur even where there is no competing road. Provided that a railway can get the tonnage, it prefers to deal with one shipper rather than twenty.

The reduction in rates is generally given in the form of a rebate, especially where such reduction is contrary to railway agreements or to state or federal laws. The shipper pays the usual rates, receiving his receipts in due form, and at some convenient time he receives a rebate equal to the difference between the full rates and the special rate granted to him. The books of the railway company do not show that any rebate has been granted and the shipper does not openly boast of it. His rivals fail, his business prospers. Why should he exult over a fallen foe or reveal his methods of business to an ignorant public?

In the face of discrimination it has become almost impossible for a small capitalist to do business. A very slight discrimination is often sufficient to ruin all those who do not receive it. The people who receive low rates are not the weak who need them but the strong who do not need them. The result is that the weak grow weaker and the strong become stronger.

There is therefore a constant tendency for the business of the country to be concentrated in the

hands of a few gigantic corporations which we call trusts. There are other causes producing this concentration but perhaps none more important than discrimination in railway rates. The railway has been called "the mother of monopolies," and if trusts are monopolies the expression is not wholly misleading. The case of the Standard Oil Company is notorious. The creation of this tremendous monopoly was greatly aided by favors obtained from certain railway companies. The extent to which such discrimination may go is indicated by a letter filed by the receiver of the Cleveland and Marietta Railroad, containing this remarkable proposal: "The Standard Oil Company threatens to store and afterwards pipe all oils under its control, unless you make the following arrangements, viz.: you shall make a uniform rate of thirty-five cents per barrel for all persons excepting the Standard Oil Company; you shall charge them ten cents per barrel for their oil and also pay them twenty-five cents per barrel out of the thirty-five cents collected of other shippers."

It happens at times that a railway, in its corporate capacity, or through its managers, is interested in some other industry, such as the coal business. When this happens, the railway company is strongly tempted to use its monopoly of transportation for the purpose of building up a monopoly in the other line of business. A case

in point is that of the "Reading Coal Combine" in Pennsylvania and New Jersey, which in the year 1892 obtained control of a great portion of the anthracite coal in the United States, with the result that the price of coal was raised $1.25 a ton. "Had the combination existed the entire twelve months, more than $50,000,000 would have been taken from the pockets of the consumers of this necessary article." In many parts of the United States a coal company cannot hope to succeed in business without an alliance with a railway company. The railway company cannot refuse to transport coal but it can charge the highest rates and can delay the cars at every siding along the line.

Railway companies are not infrequently connected with the real-estate business and still more often with the business of politics. The railways in their own way applaud those reformers who strive to introduce business methods into politics. They cheerfully assent to the proposition that politics is business and are not prepared to deny that business is politics. The influence of the railways with state and federal governments is very great and is always exercised for the benefit of the railways. Jay Gould is reported to have said: "With a Democrat I am a Democrat, with a Republican I am a Republican, but at all times I am for the Erie Railway."

There is a railway problem. It is primarily a problem concerning rates. Its solution will involve the establishment, as far as practicable, of rates reasonable and just to the investor, the shipper, the railway employee and the general public.

A number of solutions have been proposed. The advocates of industrial liberty have a very simple solution. They advise that the railways be let alone. They say that the law of supply and demand is sufficient to work out the greatest good to the greatest number. They stand upon the principle of buying in the cheapest market and selling in the dearest and they claim that the principle is applicable to every department of industrial life, including the management of railways. In railway language, this doctrine is known as the principle of charging what the traffic will bear. A railway business, it is said, is not essentially different from any other business in which prices are regulated by supply and demand. The capitalist who builds a railway is a business man. He invests his capital with a view to profit. He takes risks and ought to receive the full reward of his enterprise. When the road is built he charges what the service is worth. If the shipper thinks the rate too high he is not compelled to ship. He ships by the railway because the railway rates are cheaper than rates by other forms of transportation. In fact, rates are very low and

a great part of the wealth of the country has been created by the railways. Discrimination between classes of freight is plainly necessary and proper. Coal, lumber and iron ore cannot bear the rates imposed on silk and jewelry. Discrimination between places is also inevitable. Nature has already discriminated in this way. It is for the advantage of the public that business should be concentrated. The railways could not prevent this concentration if they would. Discrimination between persons is likewise unavoidable. Nature has made men unequal. Circumstances have increased the inequality. Capable business men have power over the railways because of their large shipments. They seek to buy transportation in the cheapest market and one railway must sell to them as cheaply as another or else be content to lose their patronage. A railway is a business enterprise and must be run on business principles. Its chief end is dividends. The policy which will secure the largest dividends is the right policy. No other business is required to sacrifice profits to personal considerations. At times certain persons suffer but is not the progress of industry always marked by the wrecks and failures of those who have been unable to advance? The weak must fall by the way and the strong must push on to greater things. Only in this way can the best interests of mankind be secured. Interference by the gov-

ernment can only do harm. The proper sphere of government is very limited. It includes little more than the protection of citizens from physical violence and from the ravages of disease. The government may also establish uniform weights and measures, a system of money and credit, a postal system, a system of public schools and a few minor institutions. Beyond this sphere it ought not to go and cannot go without serious wrong and damage to all concerned. A railway is a private institution, created by private capital for private gain and it is neither just nor feasible to interfere with its operations in any way.

These and many other arguments are thought to prove that the railway problem can best be worked out by the railways themselves in conjunction with the individual efforts of those who use the railways. The railways may very properly combine to serve their ends but the people cannot combine for their own protection without injury to the railways and to themselves,— witness the disastrous Granger legislation.

It is forgotten by the advocates of this policy that the railways are already closely allied with the government, that already they have made the government a partner in their business. Apart from the lands and money lavished upon the railways by the government, the railways have exercised, by consent of the government, one of the

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rights of sovereignty, the right of eminent domain. In extending their tracks throughout the country, across farms, through houses, into populous cities, the railways have not paid the prices demanded by the owners of land and buildings, according to the principle of industrial liberty, which they so highly commend. They have appealed to the government and by exercise of the right of eminent domain these lands and buildings have been condemned to be sold at a valuation agreed upon by a court of arbitration. What is now to prevent the people from appealing to the government to fix rates by a similar court of arbitration? The principle is the same in both cases. The justification is the same.

Again, the railways are highways. No other highways are available for the transportation of the nation's freight, amounting to 959,000,000 tons per annum, not to speak of 523,000,000 passengers. Highways have been public property from time immemorial. The "King's highway" has been superseded by the railway, but why is the railway more independent than the "King's highway?" Even if it be true that the railways, like the turnpikes of former days, belong to private corporations, why are these corporations allowed, unlike the turnpike companies, to fix their own tolls? Tolls charged on roads and bridges are closely allied to taxes and the right to tax should

belong to the government alone. As Justice Harlan has said: "A railway is a public highway, established primarily for the convenience of the people and to subserve public ends and therefore subject to government control and regulation."

Once more, it may be justly asserted that railway transportation is not like other commodities and services that are bought and sold. It is peculiar in this respect, that there is no substitute for it. If a merchant find wheat too high he may buy oats. If the people cannot afford to eat beef they may eat pork. No such option is theirs with regard to railway transportation. Every merchant must buy it, directly or indirectly, and every person is affected by the price of it, for it forms an element in the price of every commodity. As Stickney has said: "It is nonsense to call that merchandise which no man can refuse to buy." As Lord Hale has said: "When property is so used as to become affected with a public interest it ceases to be *juris privati* only." Railway transportation, therefore, ought not to be bought in the cheapest market and sold in the dearest. The common carriers of former times were subject to regulation because of their peculiar relation to the public and the common cab-man of our modern cities is not allowed to exact more than the law allows. The railways are common carriers and more than that and as such they are proper subjects for government control and regulation.

A railway is a natural monopoly and is possessed of great power. If left to itself it may be expected to use its power for its own interests. To a large extent the interests of the railways and the public are the same. To some extent at least they are diverse. Even if they were identical in the long run, could the railways be trusted to perceive that fact and always to prefer the interests of the future to those of the present time? As a rule railway directors are human and like to enjoy the fruits of their labors in the present life.

The principle of charging what the traffic will bear may be interpreted in a variety of ways. If it means charging no more than the traffic will bear there is perhaps little objection to it. If it means charging all that the traffic will bear it partakes of the nature of the theoretical landlord who charges as rent the total product of the land minus the cost of living of the tenant estimated on the basis of bare subsistence. If it means charging more than the traffic will bear it means discrimination between places and persons and an emulation of divine power in casting down the mighty from their seats and exalting them of low degree. Such an elastic principle can hardly be taken as an ideal automatic regulator of railway rates. It is not an ethical standard. It is not even a sound economic principle. It is at best a

rule of thumb used to avoid the labor of a difficult calculation and to conceal the inconsistencies of rate-makers.

It may safely be said that the let-alone remedy is discredited and practically abandoned even by its own defenders. Nature may in time work out a cure but meanwhile the patient may die.

If we abandon the solution proposed by those who favor industrial liberty, we must uphold some form of government activity. The let-alone theory is logically consistent from its point of view. At the opposite extreme is the theory which advocates government ownership and management and this theory is also logical and consistent from a theoretical point of view. The simplest solution of the railway problem in the United States would seem to lie in the ownership of all the railways by the federal government. There would then be no discriminations and no over-charges. There would be stability of rates. The profits, if there were any, would be used as public interest might dictate. There would be a great saving in the expenses of railway management. There would be no unnecessary advertising and none of the losses due to competition. A single great bureau would do the work now done by 836 independent companies. There would be a saving in salaries and office expenses. Fewer cars would be required, fewer engineers, con-

ductors and brakemen would be needed. Parallel roads would be abandoned where they did not perform some special and necessary service. Traffic would follow the shortest routes. The long haul would be given up wherever a short haul could be made. There would be no unnecessary competition with waterways. Where steamships could do the work better and more cheaply than the railways they would be allowed to do it and the people would reap the benefit. In these and other ways the saving would be tremendous. We should have a gigantic trust with all the benefits accruing to the public and not to private capitalists.

Government ownership is common on the continent of Europe. Nearly all the countries in continental Europe own part of their railways. The state railways are on the whole successfully managed. The following table shows the length of state and private lines in the chief European countries in the year 1891.

Country.	State lines, miles.	Private lines, miles.
Germany	22,059	3,311
Sweden	1,623	3,276
Norway	928	42
Denmark	880	90
France	1,570	21,341
Belgium	2,018	792
Holland	927	788

Country.	State lines, miles.	Private lines, miles.
Italy	4,927	2,690
Austria	3,163	6,343
Hungary	2,749	4,002
Russia	5,309	12,750

The argument in favor of government ownership is very strong but by no means conclusive. It is urged, on the contrary, that the American railways are already the best in the world in regard to accommodation for passengers, efficient handling of freight, speed, rates and general management. All this has been accomplished under the system of private ownership. Attention is also called to the fact that the railway system of England, where private ownership prevails, is superior to any of the continental system.

It is held that we have no civil service capable of managing the railways. It is further held that the country is better without such a civil service or "bureaucracy." To nationalize the railways would be to provide a tremendous engine for political corruption. It would be necessary for the government to incur an appalling national debt in purchasing the railways from their present owners. In all probability the government would have to pay more than the value of the railways and as a result the credit of the country would be damaged if not destroyed. The management of the railways, under a civil service lacking the

stimulus of private gain, would be inefficient, wasteful and unprogressive. Rates would rise rather than fall and there would be no profits to divide among the people after the interest on the bonded debt had been fully paid.

Finally it is urged that there is at present no need for any measure so radical as that proposed by the advocates of government ownership. The present system is established and ought not to be overthrown without much greater need than is just now apparent. The evils connected with the present system are not essential to it. They can be removed by remedies less drastic and more effective. At least, these remedies ought to be fairly tried. If after a fair trial they can be shown to be ineffective, then, but not till then, it may be wise to abolish the present system and establish a new and revolutionary system in its place.

This position is probably correct. The success of government ownership abroad has not been so remarkable as to make it clear that the United States ought immediately to follow the lead of foreign nations. There are grave and well-founded doubts as to the probable success of government ownership and while these doubts exist a wise conservatism must give to the present system the benefit of the doubt and throw the burden of proof on those who advocate so radical a change.

Unless, then, we are prepared to adopt the extreme views of those who favor government ownership or the equally extreme opinions of those who would let the railways entirely alone, we must take the middle ground of compromise and advocate some form of government control.

At first, and for many years, the building of railways was greatly encouraged in the United States. Money, land, franchises, exemptions from taxation and other privileges were freely granted, and the railways were to a great extent allowed to manage their affairs in their own way. It was not until the "Granger movement" that any widespread agitation arose against the power of the railways. The first Granges were founded in the years immediately preceding 1870. They were organizations chiefly composed of farmers and were established in the western states for the purpose of improving the homes of farmers and of rendering their occupation more profitable.

It was soon perceived that in spite of the fact that vast regions had been opened to cultivation, in spite of cheap land and fertile soil, the occupation of farming was by no means highly profitable to the average farmer. The railways had opened up the country and they claimed the right to an adequate reward for the services they had rendered. The price of wheat was high in Chicago but low in the country districts of Illinois and Wis-

consin, the difference being the cost of transportation from the local points to the general market. The railways came to be regarded as landlords who charged freight rates equivalent to as high a rental as the farmers could bear and still continue to cultivate the soil. The farmers were owners in name but tenants in fact. It was seen that if rates could be lowered the farmers would be greatly benefited. They complained of discriminations and had other grievances, but they chiefly complained of exorbitant rates, and of consequent mortgages, foreclosure and poverty.

A great agitation arose against the railways. Legislatures were elected pledged to secure reform in rates. Laws were passed in several states, notably Illinois, Iowa, Minnesota and Wisconsin, creating state railway commissions with power to establish "reasonable" rates. The Illinois law of 1873 may be taken as typical. This law "defines and prohibits extortion and unjust discrimination, makes discriminating charges *prima facie* evidence of unjust discrimination; and fixes the penalties at a fine of from $1,000 to $5,000 for the first offense, $5,000 to $10,000 for the second and $10,000 to $20,000 for the third offense, and makes the company liable to a fine of $25,000 for each subsequent conviction. Persons damaged by such charges may also recover triple damages, with costs of suit and at-

torney's fee. It is made the duty of the commission to make, for each railroad doing business in the state, a schedule of *reasonable maximum rates,* which schedule shall in all suits against such railroads be deemed and taken by courts as *prima facie* evidence that the rates therein fixed are reasonable."

These laws were opposed by the railways but were declared constitutional in 1876 and 1877 and finally in 1880. By this time there was a reaction in public opinion, due to a variety of causes. The commissions had established maximum rates sufficiently low to injure the railways without greatly benefiting the farmers. Below the maximum rates there was still plenty of room for discrimination and rate-cutting, especially between competitive points. The reduction of local rates, together with the fierce competition of railways between competitive points, caused the failure of many railway companies and the annihilation of the dividends of other companies. Foreign capital was discouraged and other industries were thereby injured. These evil effects were commonly attributed to the Granger laws and to the ignorance of the farmers who had enacted them. It was also perceived that it was difficult, if not impossible, successfully to regulate interstate traffic, which could not be regulated by any one state.

In short, the reaction resulted in the modifi-

cation of the laws and in the relegation of the State railway commissions to the position of advisers rather than rulers and it came to be understood that the problem could not be solved by state legislation, but only, if at all, by federal legislation. For all that, the moral effect of the Granger movement was on the whole good. "The corporations assumed a radically different attitude toward the community and toward the law-making power. They have since been more ready to recognize their public obligations, greater respect for public opinion is manifested and in consequence the recommendations of the state commissions, which were at first contemptuously ignored, have since, as a rule, been complied with."

After the comparative failure of the Granger legislation it became evident that federal action was necessary to exercise control over interstate traffic, which could not be regulated by the individual states. On March 17, 1885, a resolution was adopted by the Senate of the United States providing "that a select committee of five Senators be appointed to investigate and report upon the subject of the regulation of the transportation by railroad and water routes in connection or in competition with said railroads of freight and passengers between the several states." The committee was appointed by the president of the

Senate on March 21, 1885, and consisted of Senators Cullom, Miller, Platt, Gorman and Harris. After a thorough investigation, extending over the greater part of the year, the committee presented a voluminous report to the Senate on January 18, 1886. This report, with the appendix, forms a volume of 463 pages. The testimony is contained in another large volume.

In pursuance of the recommendations of the committee, Congress passed "An Act to Regulate Commerce," which was approved on February 4, 1887, and became effective in all its sections sixty days later. This act, commonly called the Interstate Commerce Act, is directed chiefly against discriminations between persons and places. It also prohibits pooling and provides for the publication of schedules of rates by every railroad engaged in interstate traffic. The railroads are obliged to adhere to the published rates and not to change either less or more without public notice. Provision is made for the legal prosecution of railroads violating the law and for penalties in case of conviction. Section 2 provides for the creation of an Interstate Commerce Commission of five members, to be appointed by the President with the advice of the Senate. The commissioners hold office for six years, one commissioner retiring every year. They receive salaries of $7,500 apiece and the secretary receives a salary of

$3,500. Section 23 provides for an appropriation of $100,000 for the fiscal year ending June 30, 1888.

Since the year 1887 the Interstate Commerce Commission has published annual reports containing a vast amount of information concerning the railways of the United States and other countries, together with valuable tables of statistics of all the railways of the United States. In this way reliable information about railways has been widely disseminated. The commission has also given much valuable advice to the railway companies and has decided a large number of minor disputes. Many thousands of letters have been written and many thousands of reports have been "wrapped and mailed."

In other respects the commission has failed to attain the objects for which it was created. The law has been found to be inadequate. The commission has had too little power and not enough money. Discriminations have not been prevented. The celebrated long and short haul clause is a dead letter. Pools and other combinations have continued to arise and pass away without any reference to the wishes of the commission. The publication of rates has been of little or no benefit to the shipper, who knows that he must get special and secret rates or cease to do business. The commissioners themselves realize that they can do

little or nothing. In their thirteenth annual report they say: "The present law cannot be properly enforced, and until further legislation is provided the best efforts at regulation must be feeble and disappointing."

The commissioners ask for legislation which shall empower them to establish a uniform classification of freight articles, to secure greater stability of rates and to prevent discriminations. They even hint that it might be wise to allow them to establish, not maximum rates, but complete schedules of actual rates, based upon reasonable principles.

There can be no doubt that if the commission is to continue to exist its powers ought to be greatly enlarged. It ought to have more power and more money. As an advisory and extra-judicial body it has largely failed. As a powerful commission, with abundance of money and endowed with judicial and executive power, it would be able to accomplish something. That it would accomplish the solution of the railway problem is by no means probable. In order to solve this problem the commission must succeed in establishing reasonable rates and in preventing discrimination.

Railway skeptics uphold this interesting series of propositions. First, there is no such thing as a reasonable rate. Second, if there is a reasonable rate it never has been and never can be discovered.

Third, if it could be discovered it could never be put into practice. Those who favor the control of rates by state or federal commissions hold that an ideal and reasonable schedule of rates can be devised and enforced. An ideal rate, according to Stickney, would consist of two elements — a fixed charge for terminal expenses and a fixed charge per mile for hauling the freight between the terminals, recognizing only one distance between any two points. The terminal charge, he thinks, should be an average of about $1.20 per ton throughout the United States. The hauling charge should be about three mills per ton-mile east of Chicago and five mills per ton-mile between Chicago and the Missouri river. West of the Missouri there might be two similar divisions, with rates corresponding to the amount of traffic and the cost of hauling it.

A scheme of rates like this, while ideally correct, would be difficult to enforce under the present railway system of the United States, chiefly because of four reasons. First, because of the existence of several roads between every important point. The longer roads would not be content to see the traffic hauled by the shorter routes. They would demand a differential, as they do now, or they would secretly offer lower rates. Secondly, the competition of water-routes would disorganize the schedules and compel the roads to

charge less for the long haul than for the short haul, to the disadvantage of local points. Thirdly, the railways would continue to discriminate between shippers and it would be difficult, if not impossible, to secure evidence that would lead to convictions. Fourthly, the great complexity of the railway system would probably be an insuperable barrier to the enforcement of any system of rates, however ideal. Stickney says, however, that a federal Department of Railways would prevent rate-cutting by the rigid application of extreme penalties, such as taking possession of the property of an offending company, as can be done in the case of national banks when they transgress the law.

While the present system of competing roads exists, it is hard to see how any scale of rates could be reasonable and fair at once to the shipper, the public and all the roads. If all the roads in the United States were combined into a single system, a schedule of rates might be devised which would do justice to all concerned. It would not be difficult in a country like Canada, where there are but two great railway companies, to establish a reasonable system of railway rates and to insist on conformity to it. If there were but one great system in Canada the problem could be still more easily solved, yet even then it would be hard to arrange a satisfactory schedule, because of the competition of American roads.

The problem of railway control will be simplified by consolidation. The process of consolidation is still going on. The thirteenth annual report of the Interstate Commerce Commission recognizes this fact. "If the plans already foreshadowed are brought to effective results and others of similar scope are carried to execution, there will be a vast centralization of railroad properties, with all the power involved in such far-reaching combinations, yet uncontrolled by any public authority which can be efficiently exercised."

This prophecy is being fulfilled and hardly a week passes without news of combination and consolidation in one part of the country or another. Early in January, 1901, persistent rumors were circulated to the effect that a strong combination was being formed between the Northern Pacific, the Great Northern, the Chicago, Milwaukee and St. Paul, the Baltimore and Ohio and the Erie Railway systems. These rumors were denied, but they had not died away when an actual transaction took place, involving the consolidation of the Jersey Central with the Philadelphia and Reading, while at about the same time the Erie Railroad obtained a controlling interest in the Lehigh Valley Railroad and purchased the Pennsylvania Coal Company. These and other financial operations are thought to point toward a consolidation of all

the "Anthracite" roads at no distant date. Another important consolidation lately completed involves the absorption of the Mobile and Ohio by the Southern Railway Company, but far more important than this is the recent combination of the Union Pacific with the Southern Pacific including the control of the Central Pacific and securing community of interests between two of the largest railway systems in the United States. This gigantic "deal" is the greatest in railway history, but the record thus established will hardly remain long unbroken, for the end is not yet.

Together with the consolidation of railway companies and the formation of gigantic corporations in all fields of industry, we find a growing tendency toward centralization in government. The state governments have shown their incapacity in their dealings with railways and trusts and it now appears that national enterprises can only be controlled by the national government.

The distinction between state and interstate traffic is unreal and embarrassing. It ought to be abolished and the national government should have supervision and control of all railways, both small and great. Instead of discouraging the formation of pools, combinations and consolidations, it should be the policy of the national government to encourage, legalize and control them, and if possible to hasten the day when all the railway systems of

the United States shall be united in one vast consolidation, under private management, but under public control. By means of private management would be secured the benefits of private enterprise and by means of public control would be secured justice to the railways, to the shipper and to the public at large.

Perhaps as good a plan as any is that proposed by George H. Lewis in his "National Consolidation of Railways in the United States." He would establish "national consolidation through the formation of a great national railway corporation, owning and controlling all the railways of the country and governed by an organization representing the state and national governments and the stockholders owning the road." According to this plan the state and federal governments would be in a sense partners in the company and would have a control over all the affairs of the company much more complete and effective than could be exercised by any commission acting from without. The joint board of control would have complete control over rates but it would not be necessary, as in Lewis' plan, to place any limit upon dividends. Provided that rates were low enough, the consolidated company would be welcome to all the dividends it could earn. Without the stimulus of private profit the company might as well be altogether owned and operated by the government.

Whatever plan of public control may be proposed, it is well to remember that railways are naturally monopolies, that the tendency of their evolution is toward more complete monopoly and that the hope of better things lies not in the extinction of monopoly, but in the control and direction of it.

VIII.

CAPITALISTIC MONOPOLIES.

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CHAPTER VIII.

CAPITALISTIC MONOPOLIES.

There are at least three chief classes of monopolies — monopolies due to location, monopolies due to privilege and monopolies due to the possession and use of large capital. Railways and municipal monopolies are important monopolies of location. The Dutch monopoly of pepper and other spices in the sixteenth and seventeenth centuries was due to their control of the spice islands and was therefore a monopoly of location. The Rothschilds' control of the cinnabar mines of Almaden in Spain and Idria in Austria formerly gave them a practical monopoly of the sale of quicksilver throughout the world. An irrigation company owning an exclusive water-right in an arid region possesses a monopoly of location. So also the owner of a mill site or of some other favorably situated piece of land may under certain circumstances possess a monopoly of location.

In early time monopolies of privilege were more common than they are now. The monopolies of gilds and exclusive trading companies were founded on privileges. Patents and copyrights are modern examples of monopolies due to privilege, as are also franchises granted by municipal,

state or national governments. Government monopolies may in a certain sense be called monopolies of privilege.

Capitalistic monopolies are those which are due chiefly to the power of capital. Monopolies of location and of privilege cannot be rendered effective without the use of capital, to a greater or less extent, but apart from location and privilege and apart from special and extraordinary ability, the possession of large capital gives to the owner a standing and power in the industrial world, which is due to his wealth alone. The use of large capital, combined with advantages of location and privilege and business ability has produced the greatest monopoly of modern times — the Standard Oil Company. This company owes its existence in part to the possession of oilwells and to its control over railways and pipe lines and is therefore a monopoly of location. It owns certain patents and is thus aided by monopolies of privilege. Behind all there is a vast reserve of capital whereby a great organization is supported, competition suppressed and commercial power maintained. For this reason the Standard Oil Company may be called a capitalistic monopoly.

The capitalist has always been a man of power in the industrial world. By means of his wealth he has often been able to compel his poorer neighbors to buy and to sell at prices dictated by him.

The modern "corner" had its prototype in ancient times. The forestallers and engrossers of the Middle Ages well understood the principle of buying in the cheapest market and selling in the dearest. The acrobatic feats of Hutchinson and Leiter were not performed with untried methods upon unexplored ground. The methods have always been hazardous and the ground always full of pit-falls, traps and snares.

The successful "corner" is a temporary capitalistic monopoly. It is monopoly because it involves a certain control of prices. It is capitalistic because it is created by the use of capital in buying and selling. It is temporary because it does not involve the control of the means of production but only of the product and because the speculator's gains proceed from the dissolution of the corner. Every corner has a period of creation and a period of dissolution. It is created by buying and dissolved by selling. The buying price is the speculator's outlay. The selling price is his income. The difference between outlay and income constitute the profit or loss of the undertaking.

The speculator buys in order to sell. When buying he wishes prices to remain low. When selling he desires high prices. Yet the effect of large buying is to raise prices and the effect of heavy selling is to cause them to fall. Herein lies the difficulty of the problem. A corner can best

be engineered in a rising market based upon an actual or expected scarcity, as when the wheat harvest is bad. The speculator in wheat who believes that the price of wheat is bound to rise thinks to aid nature by a little artificial stimulus. He begins to buy. He buys a million bushels at sixty cents, another million at seventy cents, another at eighty cents and still another at one dollar. At that price wheat begins to come from distant lands and from unsuspected sources at home. The price threatens to fall but the speculator is confident that the supply is limited. He checks the decline by another great purchase. A rise ensues. He buys again at a dollar-ten. His allies on the exchange do the same. At one-twenty-five he ceases to buy and awaits a favorable opportunity to sell. His stock is large. Perhaps he has cornered half of the visible supply. While he refuses to sell there is a scarcity. Other speculators, not knowing that the chief engineer has ceased to buy, observe the scarcity and buy on. A report of crop failures sends the price to a dollar fifty and even higher. Then the chief operator proceeds to sell. He puts out a feeler in the shape of a million bushels. They are sold at the highest price and the market is unaffected. Then a few more millions are offered for sale. The market is shaken. He buys them back and the market rallies. Again he offers to sell and dis-

poses of half his stock at the highest prices. Another tremor of apprehension. The great speculator is selling. The smaller dealers must save themselves. They rush to sell. Now is the time for Providence to intervene. A desperate failure of crops at home and abroad would save the situation, the corner would be a glorious success and the speculator's name shine forever as an angel of the pit. Providence is invoked but declines to interfere. There is no ray of hope. Everybody wishes to sell, nobody desires to buy. A panic is at hand. Prices decline, fall, sink. Disaster and liquidation prevail. Wheat is at sixty cents. The corner is no more.

Corners vary greatly in character and results, but such has been the history of more than one corner in wheat. Others have had an outcome more satisfactory to the "bulls" but less pleasing to the "bears." Yet it is difficult to obtain an effective corner in a staple commodity. The capital required is too great and the speculator is unable to restrict production. The chief effect of his operations is to increase production and thereby the corner is destroyed. This is true also of other than staple commodities. Without control of the means of production, whether of the raw or the manufactured product, it would be impossible to maintain corners in diamonds, ivory, quinine, chocolate, rubber and the like.

The speculator has at best a very limited control over the market price of any commodity, no matter how great his capital nor how keen his sagacity. His profits are to a large extent derived from his fellow-speculators and not from the general public. In his case "dog eats dog." The speculative control of prices is of trifling moment compared with the control that is possible when not only the visible supply but also the source of supply is in the hands of a single person or an association of persons working toward a common end. Such an association of capitalists is the modern trust.

The so-called *trusts* of the present time are not trusts at all in the original meaning of that word. The original trust is said to have been formed by the Standard Oil Company about the year 1882, when that company, already refining nearly ninety-five per cent. of the petroleum refined in the United States, united to itself a number of other companies engaged in the production and refining of oil. These various companies handed over their stocks to a body of trustees who undertook the management of the entire business of all the companies. The trustees issued trust certificates to the shareholders in place of the surrendered stock. Thus was formed the "Standard Oil Trust." This very successful trust became the model and type of other combinations

which soon arose in considerable numbers. Their power and success called the attention of the people to the dangers of monopoly and anti-trust laws were passed in several states, rendering illegal the particular form of combination known as a trust. In peaceful obedience to the letter of the law the Standard Oil Trust, in the year 1890, voted to dissolve. Since that date it has dissolved or has been in process of dissolution. Therefore at the present time it is no longer a *trust* but a single gigantic corporation, incorporated under the laws of New Jersey with a capital of $100,000,000. Most, if not all, of the other *trusts* have been reorganized in a similar manner.

The word *trust* is therefore a misnomer but in the absence of a better word it is conveniently used to designate, in the words of Professor Kinley, "Any large corporation, partnership or business which seeks or gets exclusive or nearly exclusive control of the product which it makes or sells." The word is even used in a wider sense than this and corporations are called trusts when the monopoly feature is entirely absent. However, a few salient features characterize the trusts of the present day. They are generally the result of the combination or consolidation of a number of formerly independent producers. They are all, or nearly all, engaged in manufacturing industries. They endeavor as far as possible to obtain

control of product and of prices. They are nearly all corporations of immense resources, their capital stock being seldom under $1,000,000, and frequently over $100,000,000.

It is their endeavor to secure control of product and prices that gives to the trusts their monopoly character. It is nevertheless true that they often fail in their attempt. Some trusts are not monopolies at all. Others are monopolies at one time but not at another. Others have the power of monopoly in regard to one class of goods but not in regard to others. Yet it is not difficult to see that a certain amount of monopoly power has already been attained by the most powerful of the trusts, that their power is increasing and that the tendency of the time is toward stronger combinations and more powerful consolidations.

The progress of combination is so rapid that statistics become erroneous as soon as they are published. From January 1st to August 1, 1899, no less than 121 corporations were chartered in New Jersey, each with a capital of over $10,000,000, in stocks and bonds. In March, 1899, it was estimated that there were in the United States 353 combinations, with a total capital of $5,830,000,000. The federal census of 1890 estimated at only $6,525,000,000, the total amount of capital invested in manufactures in the United States. In December, 1899, a list was

given by Charles S. Fairchild of sixty of the chief trusts, showing their capital to be $2,318,900,000, or an average of over $38,000,000 for each trust. Among them may be mentioned the Standard Oil Company with a capitalization of $100,000,000; the Amalgamated Copper Company with $75,000,000; the Distilling Company of America, $75,000,000; the Continental Tobacco Company, $97,000,000; the American Sugar Refining Company, $37,000,000; the Glucose Sugar Refining Company, $37,000,000; the American Bicycle Company, $30,000,000; the United States Leather Company, $130,000,000; the International Paper Company, $48,000,000; the Federal Steel Company, $128,000,000; the American Steel and Wire Company, $90,000,000. In this list eight companies are mentioned as engaged in the manufacture of iron and steel. The capitalization of these eight companies aggregates $486,000,000. Since then progress has been made toward further combination and the early weeks of the twentieth century have produced an effective plan of consolidation the greatest that the world has ever seen. The Carnegie Steel Company is to be amalgamated with seven other companies, the Federal Steel Company, the American Steel and Wire Company, the National Tube Company, the National Steel Company, the American Tin Plate Company,

the American Steel Hoop Company and the American Sheet Steel Company. The new company has been incorporated under the laws of New Jersey under the title of The United States Steel Corporation, with a nominal capital of $3,000. It is understood that the total capitalization is to be in the neighborhood of $1,100,000,000, in common and preferred stock, or about twice the capitalization of all eight companies. This daring project has created a sensation in industrial circles at home and abroad and may be regarded as the climax of national consolidation. It would be only a single step to the introduction of a ninth partner, the National Government itself.

It has been claimed that the growth of trusts has been caused chiefly by the protective tariff. That this is not the case is shown by the formation of similar combinations in England, the home of free trade, as much as in Germany and France, where the policy of protection prevails. While this is true it cannot be denied that the formation of trusts has been aided by the protecting wing of the tariff. Without the tariff it would be necessary to form a world trust in order to control the world market. Under a system of free trade combinations would exist but monopoly could hardly be established without international combinations, which it would be difficult to form, yet the savings due to combination might enable trusts

in the United States to obtain monopoly and price control below the level of foreign competition. In this case the monopoly control would be limited, but nevertheless effective within its limits.

The trust is the latest product of industrial evolution. It is of recent origin. Before the days of Hargreaves, Arkwright, Crompton, Cartwright, Watt and the other great inventors of the eighteenth century, manufacturing industries were usually carried on on a very small scale. The manufacturer was a master workman. The manufactory was the master's dwelling. The laborers were the members of the master's family, assisted by a few journeymen and apprentices. Machines were primitive and inexpensive. Large capital was not required. Crafts were organized into gilds, but the gilds were municipal and not national in their extent and influence.

When the new inventions were introduced the industrial revolution began. In time the old system of hand labor, a system as old as human history, was overthrown. In its place arose the factory system with its large buildings, its extensive machines, its bands of workers, its employers and overseers. At first the manufacturer was both capitalist and undertaker and the size of the factory was limited by the extent of his fortune. The addition of one or more partners further increased the possibility of expansion. The found-

ing of joint-stock companies rendered a still greater extension possible but increased the risk of failure. The old joint-stock companies were established on the basis of partnership, according to which the shareholders were liable for the debts of the company to the full extent of their fortunes. Under such a system there was little encouragement to outside investors. The chances of profit might be great but the hazard was tremendous. The bank failures in Edinburgh and Glasgow in the year 1857 and the failure of the City of Glasgow Bank in 1878 were severe illustrations of the working of the principle of unlimited liability.

Perhaps nothing has contributed more to the growth of great business corporations than the introduction of the principle of limited liability. Under this principle a stockholder in a company is liable in case of failure of the company to the amount of his investment, but no further, except in special cases. What he has invested he may lose, but the rest of his fortune is in no way endangered. Under this system it is possible for a capitalist to hold stock in fifty different companies, which he could not safely do, were his entire fortune to be at stake in each case. This principle was first recognized by act of the British Parliament in the year 1855. Since that time it has been adopted throughout the civilized world.

The growth of great business corporations has

also been greatly aided by the growth of railways and the wonderful development of the telegraph, the telephone, stenography and typewriting. These great improvements have rendered possible a great concentration of business and at the same time a great expansion. From an industrial point of view the United States is now no larger than was England in the eighteenth century and the whole world is no larger than the Russia of that century. By the aid of these improvements the power and influence of the business manager has been increased many fold. He can manage a capital of ten millions with greater ease than a capital of one million under the old conditions.

For all these reasons and because of the natural and continuous improvement in business methods, the growth of business corporations has been very great, especially during the past twenty-five years. With the increase of the wealth and power of these corporations competition has become more and more severe. The small firms of a few years ago could not safely enter into a destructive competition. They were already producing at a sufficiently small margin and a great reduction of prices would have brought disaster to most of the competitors and a very questionable advantage to those who survived. Therefore there was no desire for war to the knife. "Live and let live" was the accepted maxim. Competition prevented

prices from rising too high but it also prevented them from falling too low. Economists in those days very properly spoke much of prices as regulated by the cost of production. Small competitors could not afford to sell below the cost of production and then all the competitors were small.

When some of the competitors became great it was possible to compete in a great way. A firm or corporation owning a large plant could afford to compete for an indefinite time on the basis of securing enough to pay for running expenses and repairs. A corporation with a great reserve of capital could afford to compete for a considerable time at prices that would not even pay for running expenses, in the hope that its weaker competitor would succumb and leave the field. This was cut-throat competition and war to the knife. As the weaker rivals left the field and the competitors became few in number the competition became more and more severe. Prices were lowered below the cost of production. Profits were nothing and less than nothing. Such competition could not last and did not last. Among rivals so few in number it was easy to see that agreement was possible. Agreements were made. Prices were raised. It was once more possible to earn profits. But the higher prices were set the greater was the temptation to underselling. Prices were cut. Agreements were broken. War

broke out again. Wise business men soon saw the evils of the situation and the only possible remedy. If two great rivals could not slay one another they might make peace and unite their forces for a common end. This was done and consolidation was the result.

It is not necessary to assert that all trusts have been formed in precisely the manner described, but it is safe to say that the case is typical. Of late years many combinations have evidently been formed in cold blood, without the pressure of extreme competition and for the sake of securing the advantages of combination which others have enjoyed. Also some combinations have been formed by promoters, for their own ends and not for the good of capitalists or public. At the same time in nearly every case there has been much competition and many have fallen in the strife. It is now no longer possible for a man of small capital to enter the field of manufacturing, in competitions with the great companies, with any hope of success. There may be local exceptions to this rule but they are few and insignificant, for the day of the small producer is past and gone.

Trusts are formed for the purpose of securing greater profits than could be obtained without combination. They are not philanthropic institutions. Neither are they primarily designed to do evil in the world. They exist for the sake of

dividends and for that alone. The advantages of combination are many. Production is carried on on a large scale. The saving thereby effected is very great. The cost of production is greatly lowered. There is a saving in rent and in expenditure for buildings and machinery. "When the whiskey trust was formed," says Professor Jenks, "twelve distilleries running to the full extent of their capacity produced as much as eighty distilleries had produced before, when owing to overproduction they had limited their output." When trusts are formed it is common to close a considerable number of factories and to carry on the work of production in a limited number of factories favorably situated and running at their full capacity. The land and buildings thus left idle can often be sold and the proceeds turned in more profitable directions, but if not there is at least no unnecessary expense of maintenance.

There is a corresponding saving in cost of management. Where there are fifty independent factories, each must have its independent organization, with manager and staff of clerks. When these fifty factories are replaced by twenty, all under a single system, a smaller staff is required and a greater amount of work is done. Better salaries can be paid and a higher degree of skill secured. There is a corresponding saving in the cost of labor. When a trust is formed it is com-

mon for a number of men to be dismissed, for under the new system fewer men can do the work. Every laborer employed is worth more to the company than he was before. As the business is increased more laborers are employed, but the product is more than correspondingly increased.

Another notable saving is due to a change in the methods of advertising. The competitive system is notoriously wasteful in this regard. Unnecessary and expensive buildings are used to attract the public eye. Advertisements in the public prints, by the wayside, on trees, monuments and mountains, all over the world, at a cost of millions of dollars every year, are thought to be necessary to call the attention of an ignorant public to the necessity of using soap and patent medicines. People would use soap without advertising, and they could dispense with patent medicines. Most of the money spent in advertising is to be regarded as social waste. It could be saved, but only under a system of consolidation. The Standard Oil Company does not need to advertise, at least not in the usual way.

Commercial travelers are not as numerous as formerly. They will be still less numerous in the future. When five "drummers" visit five towns in the interest of five different chemical companies, four of those "drummers" may be said to be wasting their time, although they draw large

salaries and ride in parlor cars. When these five companies are merged into the General Chemical Co., with a capital of $25,000,000, a single agent can do the work of his five predecessors more efficiently and in a shorter time. Of ten insurance agents who spend anxious hours on the "life" of one unfortunate "risk," nine of those agents could serve humanity better if some other sphere of activity were opened to them. When a trust is established commercial travelers and middle-men of all sorts are eliminated. Wholesale dealers are no longer indispensable. Producer and consumer are brought closer together than ever before. The salaries and profits of these middle-men are saved. The anarchy of production and distribution is overcome.

That comparative anarchy prevails in many departments of industry is a well-known fact and one much dwelt upon by socialists. Every morning a dozen milk carts visit one small city street and a few hours later they all visit another small street five miles away. A great saving could be made in this respect by the institution of a milk trust. An ice trust is justifiable on the same grounds. The department store is an illustration of the advantages of unity and system in the retail business and promises further development along the same line.

When fifty cotton factories unite to form a

trust it is possible for each to devote itself to the production of its own specialties, instead of attempting to supply the market with many kinds of goods. While these factories are independent it is necessary for each to maintain a heavy insurance against losses by fire. When they are united into a great trust with a capital of many millions it is possible to dispense with insurance by practicing a system of self-insurance, thereby effecting a great saving every year. When a single factory is destroyed the loss is but one-fiftieth of the entire property, and by no means disastrous.

All the other savings due to production on a large scale accrue to the trust. The utilization of the by-products of the meat-packing industry is a wonderful example of economy in production. The by-products of some great industries have become as important as the original products. Subsidiary processes also can be carried on under the general management with considerable success. A great establishment can have its own electric lighting plant, its own machine shop, its own carpenters, blacksmiths and plumbers. There is here no saving in wages, but the profits that would otherwise go to independent contractors now accrue to a single great employer. When there is need of new and expensive machinery a great firm can introduce it at once and thus take speedy advantage of new and improved processes and

methods. If railway discrimination prevails the largest shipper can get the lowest rates. It is very difficult for the small producer under such circumstances to compete.

The risk incident to production is greatly lessened by the formation of a trust. A small independent producer cannot accurately foretell the conditions of the market. He cannot know just when to increase his output or when to diminish it. His decisions in this regard are to a large extent like a leap in the dark. The venture may prove a success or it may be a disastrous failure. Periods of under-production and of over-production are common. When there is under-production and prices are high every manufacturer seeks to take advantage of the favorable conditions and new companies are started to share in the profits. There is no coöperation, no agreement. Presently the market is glutted with goods, prices fall, failures are many. Then it is that producers see the necessity of combination for their own good and for the stability of business in general. They combine to form as large a trust as possible. Then they observe the conditions of the market. If production has been too great and if prices are too low to bring in an adequate profit, they close some of their mills for a time and even permanently. When the supply is diminished and prices rise the trust begins to pay dividends. As demand in-

creases the supply is gradually and cautiously increased. There may be still danger of overproduction but the danger is not so great. It has been reduced to a minimum. It has become possible to predict the condition of the market. When prediction is possible industry becomes scientific and mathematical. Failures are diminished, panics avoided, stability insured.

It is therefore possible to borrow at low rates of interest. A business man with large capital and doing business chiefly on a cash basis is able to borrow at low rates, but when to these advantages there is added a practical control of the market, the rates of interest will be the lowest possible, for the risk will be at the lowest possible point. Were it not for the mistakes of capitalists, the sins of promoters, and the uncertainties of legislation, "industrial" securities would be among the best in the financial market. Even now "industrials" of the first class are excellent investments for large and small capitalists and it is to be hoped that there will be a great improvement as time goes on. It is highly desirable that openings be found for the safe and profitable investment of small capital.

The late enormous expansion of the foreign commerce of the United States has doubtless been due to a considerable extent to the magnificent organization of the trusts. Such immense capital so thoroughly organized cannot but prove a power in

the markets of the world. In order to compete on equal terms it will be necessary for English, German and French manufacturers to organize themselves in a similar way. They have already begun to do this, for no country can afford to turn back from the way of progress. To insist on a return to the competitive system would be to yield the field to foreign rivals. This will not be done.

In opposition to the many advantages of the trust system there are two chief disadvantages. On the one hand the system is in danger of becoming too complex, on the other it is difficult to find business men of sufficient ability to carry on the great enterprises of recent times. It is true that the system is complex, but it is equally true that it is a system. Individual and competitive production is even more complex and it is not a system in any strict sense of the word. It is rather organized anarchy. In its parts it is organized, as a whole it is anarchy. There is no central motive power and no central controlling force. It is difficult for an individual to adjust himself to his variable surroundings and hazardous for him to attempt to do so. A pilot of great skill is required to steer a ship in stormy seas, amid reefs and derelicts. When the sea is calm and the trade winds blow, an ordinary sea-captain can do all that is required of him. The duties of the captain of a great Atlantic liner are not as arduous and com-

plex as the multiform duties of the skipper of a coasting schooner. The modern sea-captain is scientifically trained and highly efficient, yet it is not difficult to find men capable of doing the work that must be done. Without pushing the analogy too far, it is safe to say that the world will never lack men capable of adapting themselves to the exigencies of a new and changing environment. As long as business undertakings are to be made, undertaking genius will be developed. The mind that is able to devise a workable machine will be able to run that machine.

The industrial machine is capable of running itself for a considerable time in the absence of the directing intellect. A department store does not collapse when the manager is absent. The system is so perfect that it goes on of its own accord and there are always subordinate members of the staff who can take the principal's place for a time, and if need be, permanently. So it is with those larger enterprises known as trusts. They are managed by men highly skilled, scientifically trained, who are the product of the environment they have produced and who show no signs of incapacity but who show themselves quite able to grapple with new problems as they present themselves for solution.

From the point of view of economical production, it is probably correct to say that the advan-

tages of production on a large scale, according to the methods of the modern trust, greatly outweigh the disadvantages of that system. The cost of production is greatly lessened and thereby a great saving is effected. This saving may accrue to the benefit of the employer, of the wage-earner, or of the consumer, or to the benefit of all the parties concerned. In other words, the saving may go to increase profits, or to increase wages and shorten the hours of labor, or to diminish prices and improve the quality of goods, or all three effects may be produced.

It is no doubt true that a successful trust can lower prices if it will, and that if it will it can improve the condition of the wage-earners by increasing their wages and by diminishing their hours of labor. If it is true that the trust system does not thus benefit consumers and wage-earners, who constitute the vast majority of the population of any country, then it is a problem for the people and the lovers of the people to solve—how can the trusts be made to serve the public good by dividing with the public the benefits of industrial progress?

Before considering the possible solutions of this problem it may be well to notice the evils that are incident to industrial progress as represented by the growth and development of trusts. That certain evils exist cannot be denied, though it may

be claimed that they are of minor importance and evils which necessarily accompany industrial progress of any kind. A trust is not built up without the destruction of many competitors. In the period of fierce competition which generally precedes the formation of a trust many producers are compelled to retire from the field. They withdraw from business before their reserve of capital is all gone or they continue to fight until the day of failure and defeat. Then they disappear. It is hard to say what becomes of them. If they are young men they may find employment in the service of their successful rivals, or they may enter some other fields of business. If they are past the age of activity their lot is hard to bear. In their disappointment they are apt to reflect with bitterness upon the methods employed to destroy their trade. Competition has been unfair. Prices have been lowered to a point far below the cost of production and their slender capital could not stand the strain. Railways have discriminated against them. Their competitors have received secret rates contrary to the law of the land. Legislators have been bribed. Even judges have been corrupted. The whole process has been stained by cruelty and iniquity. The successful speak of the survival of the fittest. The only fitness that distinguishes them from those who have perished is their ability to command unlimited capital, to ob-

tain unfair rates and unjust legislation. Their fitness is on a par with the fitness of highwaymen and burglars. They survive because they are strong and unscrupulous.

Such are the reflections of the fallen competitor, the man who has not survived. He is apt to forget that he has been slain with his own weapons, that he would gladly have conquered by the same means had he been able to use them effectively. He forgets that his rivals have to a large extent been forced to employ these methods by conditions of business and defects of law. He does not see that in the main the large producer has survived because he has been able to serve the public in a more efficient way and that the days of the small producer are numbered. Sooner or later the small producer must die for his country and the large producer must live, but he must not forget that he is to live for his country. The small producer falls and the car of progress rolls on.

Again it is said that trusts often obtain control over prices, causing them to rise and fall at will, exercising thereby the full powers of monopoly. On this point sufficient evidence has not been collected, but such as there is indicates pretty clearly that trusts do control prices to a limited extent. They cause them to fall when they will, they often keep them from falling, and at times they cause them to rise to a greater or less extent above the

level that would have been fixed by competition. As we have seen, a period of extreme competition often precedes the formation of a trust and a trust is generally formed to restore prices to what is considered a fair level. The formation of trusts is succeeded by a rise in prices, or at least prices are prevented from further decline. As President Andrews has shown, before the formation of the Standard Oil Trust, the price of oil, both crude and refined, fell very rapidly. During the few years immediately following the formation of the trust there was a slight decline. Since that time there has been practically no decline at all. Besides this, the price of oil has varied greatly in different parts of the United States, showing a variation greater than would naturally be due to varying freight rates. Mr. Lloyd has shown that the Standard Oil Company has exercised the powers of monopoly in the control of prices at many times and in many places and there can be little doubt that these powers are still exercised. Prof. Ely says,— "A statistical investigation of monopoly prices suggests itself but we have no body of statistics bearing upon this question sufficiently large and accurate to tell us all that we would like to know. We may, however, say that such researches as we have had indicate that in the case of monopoly prices of all important articles and services, the price which will yield the largest net returns is far

higher than the competitive price, in cases where it is possible to have a truly competitive price." Prof. Jenks says,— "While the trusts and combines have it in their power to make profits at somewhat lower rates of prices than would be possible under free competition, they nevertheless have probably checked the slightly normal decrease in prices that comes with increasing facilities for manufacturing." This cautious statement is equivalent to the assertion that the trusts could lower prices but prefer not to do so to any great extent. It is also probably true that the trusts could raise prices but that they often prefer not to do so.

The statistics collected by Professor Jenks and published in the Bulletin of the Department of Labor for July, 1900, would seem to justify more definite conclusions. The combinations investigated have shown themselves able to control prices to a considerable extent and during a considerable period of time. In some cases there has been a fall in price of the finished commodity but this has usually been the result of a fall in price of raw materials and the difference between these, representing the cost of production and the producer's net profit, has usually been greater under strict combination than under the influence of competition. For instance, in November, 1887, just before the formation of the sugar trust, the

price of granulated sugar was 6.630 cents per pound and the price of raw sugar was 5.937 cents, leaving a difference of .693 cent per pound to cover cost of production and producer's profit. In December of the same year, just after the formation of the combination, the price of granulated sugar was 6.875 cents and the price of raw sugar 5.940 cents, leaving a margin of .935 cents per pound." In January, 1888, granulated sugar stood at 7.125 cents and raw sugar at 5.950 cents, leaving a margin of 1.175 cents. During ten years thereafter the producer's margin seldom fell below eight-tenths of a cent per pound and during half of that time it was over one cent per pound. In September, 1898, "active competition sprung up again, especially on the part of the Arbuckle and Doscher refineries. The margin again immediately dropped back to the neighborhood of 50 cents per hundred pounds and has remained low from the beginning of this active competition until the present time."

Similar figures, giving the prices of white lead, petroleum, spirits, lager beer, tin plates and other commodities, appear to show pretty conclusively that the prices of these articles have been controlled by combinations to the extent of securing a greater margin of profit than it was possible to obtain when competition was active and unre-

strained. Yet in no case have prices been very greatly raised. When prices are raised sales usually diminish, and it is often more profitable to sell much at low prices than to sell less at higher prices. During the period of commercial depression that followed the panic of 1893 it would not have been wise for the trusts to have caused prices to rise nor to have tried to keep them from falling. The conditions of business were such that the people felt obliged to restrict their consumption, and had prices not been low the volume of business would have been much less than it was. Since that time the trusts have been ready to take advantage of a revival in business. When the revival came prices rose because of increased demand, and both trusts and independent producers reaped a rich harvest. It may be that the prices of iron and steel and other commodities largely under trust control have been raised above the natural market level, because of the power of the trusts but it is impossible to determine the extent of such an influence although there is reason to think that it has been exercised. At the present time prices are falling to a more natural level, and the trusts either cannot or will not prevent the decline. It must be remembered that most of the trusts have not yet attained the position of complete monopolists and that we do not know what they will do when they obtain complete control.

It is frequently stated that when trusts obtain control over prices they are also able to control the quality of their goods, with the result that the quality is deteriorated and thereby a double gain is secured. This may be true in some cases. In others the opposite is true and a decided improvement in quality results from the establishment of monopoly in place of competition. It is well known that the pressure of competition often tends strongly toward deterioration in the quality of goods. The trusts claim to supply a good article at a fair price.

Trusts are able to some extent to control the price of articles which they buy. The packing companies of Chicago have at times exerted a depressing influence on the price of live-stock in the West. Trusts have been known to be able to compel railways to grant them special and secret rates. It is more difficult for an inventor to obtain a high price for his invention when the industry concerned is controlled by a trust. In general, trusts, like independent producers, endeavor by every means in their power to lower the prices of the things they buy and to raise the prices of the things they sell and it cannot be doubted that they have many opportunities of so doing.

It is generally supposed that trusts exert a similar influence over the price of labor, with the

result of keeping wages down, yet it seems that higher wages are paid by great companies than by small ones and that there has been no marked fall in wages since the development of the great trusts. The employees of the great railway companies are paid higher wages than were formerly paid by the smaller roads. The Standard Oil Company pays good wages. The great iron and steel companies pay wages according to a sliding scale that varies with the price of the commodities produced. The cotton companies of Canada pay higher wages than formerly.

The somewhat favorable condition of labor under the trusts may be due to the fact that highly paid labor is efficient labor, and that the trusts understand this principle, or it may be due to the increased demand for labor that has resulted from the increase of production to supply the home and foreign markets. Besides, it must be remembered that side by side with the organization of trusts goes the organization of labor. The iron works of Youngstown, Ohio, may be under a single management, but the iron-workers also have an organization and are well able to insist on recognition and on respectful consideration of all reasonable demands. It would be difficult for a trust to lower the wages of its employees while earning immense dividends, and under such circumstances it would be hard to refuse to grant an increase in

wages. As the trade unions become stronger and more thoroughly organized it will be possible for them to compete with the trusts on almost equal terms, especially by the aid of the law and perhaps with the help of compulsory arbitration. In this way the advantages of large scale productions will be divided between the parties concerned in production and since the consumers, excluding idlers, are the same people in another capacity, the question of prices may be left to work out its own solution.

The creation of trusts no doubt involves a serious disturbance to industry. Competitors are ruined. Employees are dismissed. When the sugar trust was formed seven or eight refineries were closed, throwing out of employment about six thousand men. Some of these may have found employment in the remaining refineries, but many of them must have been compelled to seek other means of livelihood. In addition to these evils, which have always accompanied the introduction of improved methods, while society has been benefited in the long run, there are other causes of disturbance which are neither necessary nor beneficial. Among these are the methods used by unscrupulous promoters, which are calculated to deceive the public and to work injury to the industries concerned. Prominent men are paid to become directors of companies whereof

they know nothing. Legislators are bribed, millions of fictitious capital are issued, based on nothing but the hope of monopoly profits which may never materialize. Dividends are paid out of capital. Stocks are manipulated for speculative purposes and to deceive the uninstructed investor.

These are real evils, but they are limited in their effects. The financial world is not long deceived. Capitalists decline to invest. Banks refuse credit. The false industrials disappear from the market. The true industrials, those based upon real values and sound financiering, prove their claims and maintain their position. There may be danger of an over-issue of new industrial securities and a consequent period of speculation, followed by panic and collapse, but the danger is surely not as great as it would be under the competitive system. Production is likely to be restricted, rather than increased, and there is no expectation of fabulous dividends such as were promised by the South Sea Company of the eighteenth century or the South African mines of more recent times. On the contrary, the investing public is rather afraid of the new industrials and will not plunge into wild speculation, unless the financial prospects of the trusts grow much brighter and the danger of legislative interference become very much less. It is therefore probable

that trusts will continue to be formed without any disastrous effects upon the industrial and financial world and that under the new system periods of panic and extreme depression will be less frequent than heretofore.

Even though it may be admitted that the trusts have not in the long run caused prices to rise, but have rather allowed them to fall, it must be observed that many of the capitalists who stand at the head of the great trusts have amassed enormous fortunes. Great savings have been effected by means of modern methods of production, but the lion's share seems to have gone to the capitalist and not to the people at large. The capitalist has retained enough to compensate him for his expenditure of capital, his activity of brain and the risk to his health and fortune. When a single person is able in the course of thirty years to amass a fortune of $150,000,000 or more, it must be evident that he has not permitted the price of the commodities produced under his control to fall much below the cost of production. On the contrary, there must have been a comfortable and living margin between the cost of production and the selling price. Dividends must have been high. They are still high in many cases. Professor Parsons has shown that the Western Union Telegraph Company has paid dividends in a single year more than equal to the entire capital invested. He

maintains, and with much reason, that at the present time, when a dividend of six per cent. is paid on a capital stock of over $100,000,000, this dividend is equivalent to at least thirty per cent. on an original investment of less than $20,000,000. The quarterly dividend of the Standard Oil Company paid in March, 1900, consisted of the "regular dividend" of three per cent., together with "an extra cash dividend" of $17,000,000, making a total of $20,000,000 paid in a single quarter on a capital stock of $100,000,000. The dividend for the year 1899 was thirty-three per cent. No wonder that the market value of this stock is over $700,000,000 and, according to "The Outlook," "exceeds the market value of all the farms in South Carolina, Georgia, Florida, Alabama, Mississippi and Louisiana."

Other illustrations could be given from the history of the sugar industry, the steel industry and the like, to show that dividends have been high and that great fortunes have been made. Is it unreasonable to claim that the capitalists have taken more than their share of the wealth created by the improved methods of production which they have helped to introduce? These improved methods have been the outcome of general progress and intelligence and not the creation and work of capitalists alone. The capitalists themselves are the product of the times in which they

live. Circumstances have raised them to power and would have set others in their places if these particular millionaires had never lived. Therefore they ought to share their profits with their fellow-citizens, who in many cases are as strong physically, as capable mentally and as good morally as they. Besides, it is not good for the commonwealth to have more than half of all its material wealth in the hands of less than one hundred and fifty thousand families, representing less than a million people out of a population of more than seventy million souls. This is injurious to the rich and unfair to the middle classes and the poor. It threatens the existence of the Democracy and reminds us of conditions in France before the Revolution. The safety of the Republic depends upon the welfare, material and moral, of the middle classes, and we cannot safely allow them to be destroyed.

These arguments are ethically and politically sound. The growth of enormous fortunes ought to be prevented, provided that it can be done without seriously impairing the productive power of the nation. If capitalists can be induced to undertake the work of production without the inducement and hope of obtaining for themselves as much as one or ten or one hundred millions of dollars, by all means let us limit the reward, but if in doing this we diminish the production by an

amount equal or nearly equal to the present profits of capital, such limitation cannot be beneficial but only injurious to the public at large. However, it seems probable that some limitation could be made which would secure to the people some of the profits of capital without discouraging investment and enterprise. If this can be done, it ought to be done.

In considering the means for the attainment of this end, we are brought face to face with the corruption and incapacity of legislators. If the growth of wealth has thus sapped the moral and intellectual forces of the nation and has rendered the people unable to cope with the difficulties that have arisen, then is the outlook dark indeed. But the patriotic citizen will not believe that the heart of the nation is unsound and its brain diseased. He will hold that a remedy exists and can be found for the cure of superficial ailments and temporary defects. Yet the remedy must not be merely temporary, to do away with the evils incident to the existence of trusts. It must provide for the permanent health of the industrial organism. Industrial progress must be encouraged and the benefits of it secured as far as possible to all classes of society.

The political philosophy of the industrial revolution is ready with its answer that these ends can best be secured by the method of liberty. This

philosopher is an optimist, a believer in human nature, an upholder of liberty of thought and action in morals, religion, politics and industry. Individual liberty will, in time, cure all. The state has little or no industrial function to perform. It has but to preserve order, to keep the peace, to prevent physical violence, to provide good roads, to secure sanitation, to prevent epidemics, to carry the mails, to represent the people with dignity and honor. Beyond these and a few other functions, the state must not go. Into the sacred domain of industry the state must not enter. It must not interfere with buying and selling. It is man's most sacred and divine right to buy in the cheapest market and to sell in the dearest. When complete industrial liberty prevails, when perfectly free competition obtains, then the producer will have right profits, the laborer will earn fair wages and the consumer will pay just prices. By virtue of the fundamental law of supply and demand, the economic forces perform their work with marvelous precision and all the parts of the industrial world revolve in their proper spheres with perfect harmony, working out in the end the good of each and the good of all.

Unfortunately for the consistency of this beautiful theory, a few facts of industrial life perversely refuse to be conformed to it. The parts of which the economic world is composed are chiefly persons

and not things. Being persons, they have human interests and feelings that demand recognition. The interests of one class of persons are not always identical with those of every other class, or if they are, the identity is hard to perceive. As a result of the clash of interests we have unjust treatment of men by men. Not all oppression is due to the application of physical force. There is the power of money, the power of position, the power of influence, and that power has often been used for purposes of oppression. Hence the state has been obliged, contrary to the advice of economic theorists, to make laws against the employment of very young children, against the employment of women in mines, against unsanitary conditions in factories, securing compensation for injuries to employees, enforcing contracts, preventing usury, protecting seamen. When shall this legislation stop? Where can we draw the line? Who is to say thus far and no farther? Is it not true that the power of monopoly is great and growing greater? Is it not true that there is great power in the possession of great wealth and that the weak are unable to contend with it? Can it be denied that even now industrial freedom is little more than a name? There is little or no industrial equality and freedom. The few rule and the many serve. Even before the law, the poor man is not the equal of the rich. Was it not therefore right

to have made laws protecting the weak against the strong and will it not be right to make more of such laws in time to come?

This line of argument has much weight at the present time. The old and consistent philosophy of industrial liberty is now largely discredited. In its place we have the views of men who are in general sympathy with the doctrine of liberty but who see that it sets up an impracticable ideal and that license at least must be suppressed by law. Where liberty has failed law must intervene, but it must be clearly shown that liberty has failed and that law can provide the remedy. We must wait, therefore, until we are clear on these points. Evils exist, but they tend to work out their own cure. Only a little assistance is required, a little stimulus to set nature at work.

This may be supplied in several ways. The interests of capitalist, wage-earner and consumer, are in the long run the same. All parties should know this. If they knew it, they would all agree. They only need enlightenment. "Enlightened self-interest" is a phrase which is the modern counterpart of the Socratic "Knowledge is virtue." If the managers of a trust which has real monopoly power could only know their own best interests, they would not unduly lower the wages of their laborers nor would they raise prices beyond the point of fairness to the consumer. They

would keep prices low and wages high and would be content with small dividends. If they are not wise enough to do this, they will lose in the end. Their punishment may come in several ways. Perhaps some other great capitalists will establish a trust in competition with theirs and finally destroy them as they have destroyed their competitors. Perhaps the trade unions will become strong and will compel the trust to pay higher wages. Perhaps the people will rise in their wrath and sweep the oppressor from the face of the earth. These are the terrors which will induce the trust to keep prices below the level of greatest net returns, down to a point little, if any higher than the level of free competition.

There is something to be said for this policy. The power of potential competition is not insignificant. There is a great deal of capital awaiting investment, seeking for profitable employment. When the profits of a trust are high, say twenty or thirty per cent, the eyes of those who command large capital are quick to observe a chance for profits. They consider whether they can safely enter the field in competition with the trust or even threaten so to do and thus levy a kind of blackmail upon the enemy. They do not wish to compete for the sake of competing, but for the sake of profits. They may actually compete for a while, but when their power is shown, they will be quite

willing to be admitted into the fold of the trust, to share its privileges and its profits. Now a trust does not want to admit outsiders and if it wishes to keep them out it must not offer too great inducements in the shape of high dividends. It ought not to insist on excessive profits, lest sooner or later they should be taken away.

But it is possible to exaggerate the effect of potential competition. Human nature is apt to think calamity will come later and not sooner. "After me the deluge." Therefore we find oppression triumphant, if but for a day. The oppressed will be delivered, the oppressor cast down, but how soon? In the words of Scripture, the exploited cry out "O Lord, how long?" Deliverance will come, Nature will work out its own cure, while the patient still lives or after he is dead.

The same criticism holds good with regard to the opinion that the growth of trade unions will solve the difficulty. It is probably true that the time will come when laborers will be as well organized as capitalists and will be in a position to demand and obtain their rights. The trusts will then be compelled to share their gains with the great working classes who constitute the bulk of the community. It will then be necessary to have some general industrial court to decide questions of rates and prices, in order that one industrial

group may not receive more than others. This condition will be very near the ideal of socialism. It is possible and even probable that some such ideal solution will work itself out in time, and perhaps at no very distant date, but are we to fold our hands and peacefully wait for the happy consummation or are we to hasten the day by every means in our power, that we may have some of the fruits of our labors here and now, while we are still alive and able to enjoy them?

The extremists who say that trusts must be let alone are well matched by other extremists who say they must be suppressed and destroyed. These are the authors and supporters of many anti-trust laws that have been enacted during the past ten years, especially in southern and western states. In the minds of such men, not only are trusts altogether evil, but all business corporations bear the mark of the beast. They have no soul, no conscience, no tender mercies. Great wealth in the hands of an individual owner is bad, but in control of an incorporated company, it is tenfold worse. These well-meaning reformers, realizing the power of corporate wealth, think that it must be a power for evil and not for good.

The modern business corporation is an organization well devised to meet the needs of the modern business world. It has proved its value by the work it has done and in the main it is a power

for good. It is almost inconceivable that a man of average intelligence should desire to see corporations abolished or even seriously hampered in their operations. They are not perfect. They may need to be improved, but not annihilated. So it is with those great corporations which we call trusts. They are not wholly evil. They are rather good than evil. The evils are incidental and superficial. The good is essential and fundamental. They are labor-saving machines of high efficiency and great public utility. It is better to use than to destroy. It is either impossible to destroy the trusts or it would be foolish to destroy them if it were possible.

The various anti-trust laws have failed to abolish trusts and have failed to correct their abuses. They have been chiefly directed against the form of the trust, not against its essential nature. The trust is capable of changing its form many times without any change of heart. If the law object to the trust as such, it will become a simple corporation. If it cannot be a corporation, it will take the form of a partnership. If a partnership be impossible, it will become the property of a single owner. If it be persecuted in one state, it will flee to another, preferably to New Jersey or Delaware. The anti-trust agitation is misdirected energy. It is war against progress. Trusts exist because they serve the public. If they do not

serve the public as they ought, they should be compelled to serve it better.

If then, the trusts are not to be let alone nor to be destroyed, but to be used for the public benefit, it follows that they must be brought to a greater or less extent under government control. Public opinion may do much in the way of directing legislation, but public opinion alone, without the power of law to sustain and enforce it, would accomplish but little. In time, we hope, society will be regenerated, and an offending capitalist will be readily disciplined by means of "social ostracism," but meanwhile, the power of intelligent and virtuous public opinion can be applied through representatives and legislators.

If we are to have legislation dealing with trusts, ought we not to begin with mild and harmless measures, by way of experiment, proceeding to more drastic remedies when the inadequacy of palliatives shall have been clearly shown? Among the more conservative measures that have been proposed is the reform of corporation laws. It is almost a public scandal that the corporation laws of New Jersey and Delaware are so favorable to the formation of trusts, while the laws of some other States are so unfavorable to them. Somewhere there must be error and injustice. The corporation laws of all the States ought to be essentially the same. The United States is a nation,

and not a confederacy of nations. There is great need of a national corporation law resembling in some respects the national banking law. Under such a law, the trusts could be controlled as far as might be necessary. Without such a law, they can never be placed under adequate supervision and control. The first State to attempt such control would be the first to suffer loss by driving away capital and discouraging enterprise.

Then there ought to be publicity of accounts. When a corporation becomes as great as many of the trusts, with many millions of capital, doing business in all parts of the Union and possibly exercising a controlling power over prices, it becomes an institution of national importance and clearly "affected with a public interest." The people are concerned and ought to know something of the affairs of such a corporation. While competition prevails, secrecy may be imperatively demanded but when it is wholly or in part restrained, secrecy is no longer necessary. Besides, it would not be wise or necessary to demand more than a limited amount of publicity. The systems of accounting ought to be more or less uniform. An annual statement should be made, showing the financial condition of the corporation, the amount of its capital, the way in which it is invested, the dividends paid, the surplus on hand. Much of this information can even now be obtained from state-

ments issued to shareholders, but it is not readily accessible to the general public. Perhaps the people are incapable of understanding such reports, but if they are to be the judges and to judge wisely and if wise legislation is to be enacted, it is necessary for them to know the facts.

Also it is probable that laws ought to be passed against over-capitalization. Stock-watering is largely practiced in order to conceal dividends and thus to deceive the public. It is perhaps better that a stock should sell at 500 on a capitalization of $100,000,000, than that it should sell at 100 on a capitalization of $500,000,000, provided that the value of the plant is not more than $100,000,000. A corporation should be capitalized on the basis of its material wealth, rather than on the basis of its earnings, present or prospective. Otherwise the relation of the earnings to the original investment is obscured and it is not possible to distinguish the normal profits of capital from the extraordinary profits of franchise or monopoly.

Another much needed reform concerns discrimination in railway rates. It has been said that trusts are few and feeble in Germany because all shippers are treated alike by the government railways. However this may be, it is certain that some trusts have been built up by alliance with the railways and that there is no moral or economic justification for much of the discrimination that

prevails and has prevailed throughout the United States. If the trust is to prove itself the latest and most useful product of economic evolution, it must defeat its rivals upon equal ground, in a fair field, without fear or favor. A solution of the railway problem will contribute not a little to the solution of the problem concerning trusts and monopolies.

Again, it has been claimed that the tariff is the mother of trusts and that the child is still in such vital relations to its parent that the death of the parent would involve the death of the child. It is therefore proposed to abolish the tariff and thereby to introduce foreign competition, which would break down the monopoly power of the trusts if not the trusts themselves. It would not be necessary to do away with the tariff in all its parts. The removal of the tariff would merely be a remedy held in reserve for any particular case of monopoly due to a trust, to be used by the federal executive whenever it became evident that such monopoly existed. In all probability, it would seldom be necessary to use this remedy, since the trusts would be careful to avoid taking advantage of their monopoly power for fear of having it taken away from them, with their more legitimate profits as well.

If this remedy could be honestly applied it is probable that it would be effective as a means of

preventing monopoly prices in those lines of industry which still "need" protection against foreign competitors and where prices are maintained at a level higher than would be possible in the face of such competition. In such cases, the removal of the tariff would cause prices to fall and a period of international competition would ensue. The trusts would probably continue to exist, but their monopoly power would be gone. The re-establishment of monopoly prices would be possible in two ways. On the one hand, the American producers might be able to lower the cost of production to such an extent that foreign producers would be obliged to abandon the market. Then, below the level of foreign competition, there might be a limited amount of monopoly control. It might not be beyond the power of a powerful American trust to worry and alarm the importer of foreign goods to such an extent that such importation would become hazardous and unprofitable. On the other hand, the formation of an international trust would not be out of the question, and such a trust could not be destroyed by tariff reform.

In the case of trusts which even now sell at prices below the level of foreign competition, the removal of the tariff would affect them very little, if at all. Among trusts of this class are probably The Standard Oil Company, the great iron and steel combinations, The United States Leather

Company, The Continental and American Tobacco Companies, The Distilling Company of America, The American Ice Company, The American Smelting and Refining Company, The United States Rubber Company, The American Bicycle Company, and a number of others, including a large proportion of the greater trusts. The prices of articles produced by these trusts would probably remain as high or nearly as high as now, profits would be as great, wages would not be increased and no public advantage would be gained beyond a certain security against future misuse of monopoly power.

If these and other milder measures did not succeed in curing the evils connected with trusts and if it were clear that the evils were sufficiently great, it would then be desirable and necessary to adopt more severe measures, to apply more radical remedies. It is proposed to regulate the trusts by means of a federal commission similar to the Interstate Commerce Commission, but with far larger powers and more extensive organization. Such a commission might be a regularly organized department under the federal executive, with a member of the Cabinet at its head and all necessary machinery and funds at its command. The trusts would be recognized by law and legally placed under the control of the department as in the case of the national banks, only the control

would be more complete and more effective. Officials of the department might even be members of the board of management of the trusts and thus exercise control from within, rather than from without.

Two main lines of action would be possible. The department might regulate prices and wages or it might avoid interference with the conduct of business and content itself with taking a share of the gross or net profits in the form of special taxation. Someone has suggested that the trusts be allowed to earn four per cent. interest on all capital actually invested and that half of the surplus profits be taken by the government for the benefit of the public at large. The privilege of establishing a national monopoly would be an exceedingly valuable franchise and capitalists would be willing to pay largely and think it no hardship so to do. The great income of the federal government might be used to relieve the common people from taxation or to establish a system of working-men's insurance or to benefit the people in some other way.

Another remedy that has been suggested is connected with reform in taxation, especially in regard to income and inheritance taxes. It is said that business men ought to be allowed to carry on business in their own way and by whatever methods they please, but that after they have accumu-

lated their profits, the state ought to step in and claim the share of the people. It is undesirable that great fortunes should be perpetuated. No man is the creator of himself or his fortune. Both are the products of environment. There is an unearned increment and that increment belongs to the people. Therefore it is right that there should be a progressive income tax and heavy succession duties. A just income tax would exempt small incomes and tax large ones at a progressive rate. An income of $10,000 a year might pay a tax of ten per cent.; a tax of twenty per cent. might be levied on an income of $100,000, while fifty per cent would not be an excessive tax on an income of $10,000,000. Then, at the death of the millionaire, if any such were left after the surgical operations of the income tax, a proper share of his fortune would go to the state. An estate of $1,000,000 might pay an inheritance tax of twenty or thirty per cent., while it would be right and proper for the state to appropriate as much as one-half of an estate of $100,000,000, especially if willed to collateral heirs. In this way great fortunes would be distributed among the people after two or three generations and the fruits of industry be restored to the producers of it. This would be confiscation but why is confiscation always unjust?

Public ownership is put forward as perhaps the

most radical of all the remedies for the evils of trust. It would be introduced little by little. First, the railways would be taken, together with municipal monopolies. Then, after experience had been gained and success thus far assured, steps could be taken leading to the complete ownership and management of trusts and all other industrial enterprises by the state.

In order to render possible any of these more radical measures, or to render them unnecessary, one or more amendments to the federal constitution will no doubt be necessary. It is probably impossible under the present constitution for either the federal government or the state government to control the trusts. If they are to be controlled and not destroyed, it will be necessary that this be done by means of a central authority such as only the federal government can exercise. The framers of the constitution could not foresee the economic evolution of a hundred years. We respect the memory of Hamilton, Madison and the rest, but we cannot be forever bound by the principles and rules which they laid down. The times have changed.

While considering solutions and remedies, it must not be forgotten that the problem to be solved is to a large extent a new problem, and one upon which the study of history can throw at best a dim and uncertain light. Conditions are new.

Experiments must be made, but they must be made with caution. There is no need for extreme haste. We must move but we must move slowly. It is necessary to be sane. It is necessary to be cool-headed. It may be necessary to denounce but denunciation is not trial, is not conviction. There is great need of general and special education, general education to give broad views and special education in economics and kindred studies to give an appreciation of the nature and difficulties of the problems to be solved. It is possible that the problems will work out their own solution. It is probable that the best solution will be the result of the intelligent coöperation of man with his environment, changing the environment and changing the man. Trusts are the product of intelligence and they must be subject to the power of their creator.

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